FPL-JC

JERSEY CITY

A Study of Its Beginning
Its Growth and Its Destiny

BY

WM. H. RICHARDSON

With Illustrations

A Tribute to the Achievements of a Great People, upon whose Faith is Founded the Noblest Civic Future.

CONTENTS OF THIS NUMBER:

The Beginnings of Jersey City
The Alexander Hamilton Charter of 1804
New York's Claims to the Hudson
The Boundary Treaty of 1834

1927
Published by THE JERSEY JOURNAL
Jersey City, N. J.

JERSEY CITY

A Study of Its Beginning
Its Growth and Its Destiny

By

WM. H. RICHARDSON

With Illustrations

A Tribute to the Achievements of a Great People, upon whose Faith is Founded the Noblest Civic Future

FREE PUBLIC
LIBRARY
JERSEY CITY, N. J.

1927

PUBLISHED BY THE JERSEY JOURNAL,
Jersey City, N. J.

Copyright 1927
By WILLIAM H. RICHARDSON
Jersey City, New Jersey

LaRY 974.9
J48Rz

This year is the Quarter-Centenary of our coming to the place we soon discovered was the City of Friendliness, and from this perspective of life as I pen this sentiment of dedication the text seems to weave itself, almost automatically, around the one person in all the world who has so happily made our home and family a part of neighborly Jersey City, and to whom I now inscribe this book, my wife,

JENNIE S. S. RICHARDSON

November 12, 1927

LA11008

FOREWORD

In the days when America was being welded into a great nation, Jersey City came into being and its citizens played a stirring part in the affairs of the times. Many notable scientific achievements destined to revolutionize the practice of the ages had their inception on the west bank of the Hudson but until now no serious effort has been made to give the real story of Jersey City. "Histories" have been issued, it is true, but these have only served to emphasize the fact that much has been neglected, or overlooked.

With the coming of William H. Richardson, however, there began a search for historical data that has been insatiable and which has produced a mass of material from sources hitherto uncovered, much less suspected. This material gives Jersey City a background that is as unique as it is important, if one is to make a proper evaluation of the days that were, as well as the days that are.

This publication, the first of a series, is designed to give in chronological order, a word picture of the real beginnings of Jersey City. The Jersey Journal in becoming the vehicle for its presentation hopes it will prove a valuable source of information to those who desire to know more about the men and women who laid the foundations for the city and the events that contributed to its developments.

THE BEGINNINGS OF JERSEY CITY

The Federalist Fathers and Obscure Bits of History Dealing with the Early Days of "Powles Hook"—The 35 Associates.

ONE of my diversions of the last dozen years or so has been to cultivate the acquaintance of people of the past who were Jersey City. The most difficult period to penetrate has been the era of its beginnings. It has been told me in all seriousness, and many people believe it sincerely to this day, that the founding of Jersey City came about through a passion for cock-fighting that obsessed two rich New Yorkers, Anthony Dey and Colonel Varick; because their aristocratic Wall Street neighbors would not permit them to indulge in it there they came over here and so the place throve around the manifestation of their gentlemanly sporting instincts. Jersey City, like Topsy, "just grow'd."

Probably the most thoughtful authority upon an event that should be most historic to us is Charles H. Winfield. He read an address before the distinguished New York Historical Society, June 2, 1891, that was afterward reprinted in a 97-page pamphlet elaborated with maps, pictures, annotations, etc., entitled "A Monograph on the Founding of Jersey City." In its preface he says "I have not hesitated to incur the expense of a proper presentation of the founding of our city, convinced that the residents therein will appreciate it." In other words, Mr. Winfield published that as an authoritative document at the time and our citizens have so understood and appreciated it. I do not see how any one could read and digest it and escape the conviction that the story of the founding of Jersey City might have been more creditable than it was, and that the Monograph is a record of discouragement, disappointment and defeat for those who first believed in it.

In 1894 Alexander McLean's History of Jersey City was published: from his background as a newspaperman Mr. McLean naturally saw many more sprightly and interesting things going on in the infant city, but he, too, chapter-heads the records of those early days with the story of the failure of the new adventure here. William H. Shaw's compilation of 1884 of the History of Hudson County fortunately does not give us much detail, so there is less to be said of that. But those volumes are the

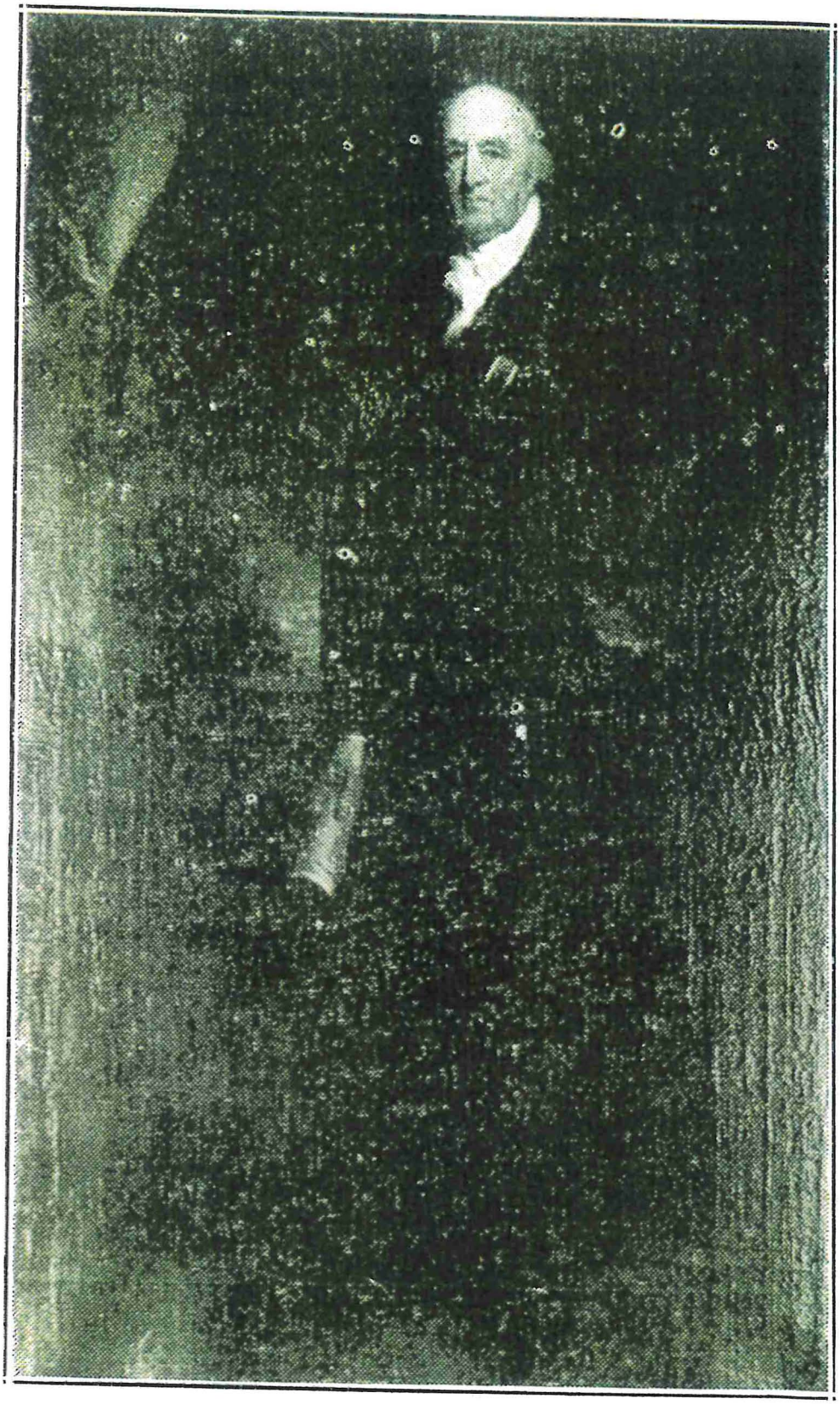
only source documents to which most of us must necessarily go in order to know our city; and frankly, in the light of modern historical research, I believe they are inadequate and unsatisfactory. The more recently published "History of the Municipalities of Hudson County", 1924, is no more illuminating; that has only one reference to Anthony Dey indexed, and none to either Richard Varick or Jacob Radcliff. Its approach to the lives of those three really great men and their associates here is equally devoid of novelty, or comprehension of the thing they did.

Since 1874, when Mr. Winfield's first "History of Hudson County was printed, we have gazed at no other portraiture of the three gentlemen, "Anthony Dey, Jacob Radcliff and Richard Varick, The Founders of Jersey City," than the threadbare woodcuts which adorn our family album. At least four of John Trumbull's portraits of Richard Varick have always been accessible. And those gentlemen were not the founders of Jersey City in the same sense that William Colgate in 1806 founded in New York the great business that was later removed to and now occupies so large an area of the Jersey City those three men knew. Among themselves they were first known as the Proprietors. it was simply a convenience to have them so designated, as the legal representatives of the "Associates of the Jersey Company" that was to be, until its property was acquired, the titles perfected, the charter granted, or any other details or preliminaries cleared up. There were 35 of these Associates. Their names and the number of their shares appear on a document known as the Articles of Association dated October 11, 1804, and which is said to be the first recorded list of those interested:

	Shares		Shares
Richard Varick	100	David Dunham	20
Jacob Radcliff	100	Abraham Varick	20
Anthony Dey	100	Peter W. Radcliff	40
Joseph Bloomfield	20	Samuel Hays, Jr.	5
John Noble Cumming	50	William S. Pennington	20
William Halsey	50	J. Panbell	20
Alexander C. McWhorter	30	William Walton Woolsey	40
Elisha Boudinot	15	Aaron Ogden	25
Samuel Boyd	20	William Radcliff, Jr.	20
Archibald Gracie	40	Samuel Pennington	5
John B. Coles	20	John A. Davenport	10
James Thompson	20	Joshua E R Birch	10
David B. Ogden	20	Elisha Leavenworth	20
John Wells	30	Isaac H. Williamson	5
John Radcliff	20	Amasa Jackson	3
J. Rhea	20	John Ward	10
David Hunt	20	Isaac Kibbe	5
Joseph Lyon	20	Total 975 Shares	

To that list should be added the names of
Alexander Hamilton Josiah Ogden Hoffman

Those two were the Counsel for the new Company and for



Colonel RICHARD VARICK

Born in Hackensack, March 25, 1753; died in Jersey City July 30, 1831.

From the portrait by Colonel John Trumbull in the American Bible Society Board Room, New York. Copied 1927 by the Amagraph Company.

reasons evident enough as the real story of the founding of Jersey City is developed their contribution to it will be found quite as important and substantial as anyone's else whose name is found on the list above. Then we must insist upon the addition of the following names in a special group in our Galaxy of Great Ones, whom Jersey City should honor, and for reasons that will also be apparent enough later:

James Parker	Theodore Frelinghuysen
Lewis Condict	John Rutherfurd
Richard Stockton	Lucius Q. C. Elmer

Those gentlemen, in connection with Colonel Aaron Ogden, Wm. S. Pennington, and Alexander C. McWhorter, were members of Commissions appointed by the Legislatures in 1807, 1827 and 1833 to adjudicate the calamitous Boundary Dispute that arose almost immediately after the plans for the Associates were made public.

In the Monograph of 1891 the author says "whatever may be said of the founders of other cities, it must be admitted that those who were interested in the beginning of Jersey City were no ordinary men." We cannot help wishing that he had left out of his narrative a few of those pages which so unbalance it, chuckling over the horse-racing, the gambling and the rowdying at Powles Hook, and devoted them to the honor of a group of men who indeed were not ordinary! Probably from no other place in America could such an extraordinary group of men have been organized as were concerned in the founding of Jersey City.

At least ten of these men—Richard Varick, Jacob Radcliff, Samuel Boyd, James Thompson, David B. Ogden, John Wells, William Walton Woolsey, Aaron Ogden, John Ward, and Josiah Ogden Hoffman—were worthy enough to be honored later by membership in the New York Historical Society, and it was in the august presence of their ghosts that that appreciation of what their lives meant was delivered on June 2, 1891. Had there been an American Society for Psychical Research present on that evening of its delivery, they doubtless would have had some very interesting manifestations to record.

Joseph Bloomfield was Governor of New Jersey from 1800 to 1812, except for one year 1801, when we were without a Governor. He was in office at the time the affairs of the new company were first in the public eye, and the owner of twenty shares of its capital. Even if a Republican, he seemed to have been useful to the Federalist Associates. He had been a Captain in Dayton's 3rd New Jersey Regiment in 1776, and he served through the war, emerging a Major. Before his death in 1823 he still further served his country with distinction as a Brigadier-General in the War of 1812-15, and from 1817 to 1821 as a member of Congress. But with the background of his life already established before 1800, it is not difficult to understand his relationship to the rest of our group and why he was entitled to his place in the sun of their regard then, quite as importantly as he should be in ours today.

The Monograph of 1891 devoted several pages (59-62) to the recital of the varied and extensive rights and privileges conferred upon the Associates, but it does not begin to tell all of the ambitious projects the founders had in mind, the far leaps into the future these men were making, simply to found a city that in order to rival New York had to be a city. Why Governor Bloomfield ever wrote on November 12, 1804, apparently in great haste, to his old friend and military chief, addresing him as "Hon. General (Jonathan) Dayton," then in Congress, a two-page letter including a final hurried postscript almost entirely devoted to the affairs of the new Company, may some time appear. The letter itself has probably never before been consulted by any writer on the relations of the people who were our founders.

LETTER FROM GOVERNOR JOSEPH BLOOMFIELD TO GENERAL JONATHAN DAYTON

Trenton, November 12, 1804

Dear General,

Although I received from the Post Master-General and the Jersey members, the President's message, yet I am not the less obliged by your attention and shall always feel obliged by any of the printed documents, messages, proposed bills, etc., etc., which you may put under cover of your frank for me. The electoral and Congressional ticket recommended by the Republican conventions has been voted for without opposition.

The Bill to incorporate Powles Hook "Jersey Company" passed Council Saturday. The Banking clause was stricken out from a remonstrance of the Newark directors and stockholders However, matters having been satisfactorily new-modeled, a separate bill giving a branch to amount of $2,000,000, has passed the Assembly and will in the course of tomorrow, pass Council. The Turnpike Bill from Trenton to New Brunswick passed the Assembly on Saturday and will no doubt be concurred in by Council. Edgar's bill for a Turnpike from Boundary (?) river to Elizabethtown is before the Assembly, and it is expected will also pass. And I have hopes that another bill will be offered for the intermediate share to be turnpiked, so that I hope the communication between the Delaware and Hudson will speedily be facilitated through our State. A committee is appointed to bring in a Tax Bill. These objects with some others of inferior magnitude will prolong the session probably until December. The Trenton True-American will show the proceedings of the Assembly and Legislature more in detail and which shall be regularly forwarded to you, agreeably to your request. A joint meeting this PM will select Peter Gorden Treasurer.

I have had much trouble in the appointment of com-

JOSEPH BLOOMFIELD
Governor of New Jersey 1801-2; 1803-12
From the St. Memin miniature.—Courtesy of the N. J. Historical Society.

missioners to view the Morris Turnpike but finally (to the satisfaction I believe of all interested) General Cummings, Col. Phins. Morning and Jason Ralstone, of Morristown have been commissioned.

Monday Evening.

The Turnpike bill passed at 5 this PM in Council unanimously. The Powles Hook Bank of 2 millions passed to 3d reading. 4 for and 2 against it. It will pass tomorrow morning without doubt.

Time will but permit me to add

mo. truly, yrs obediently

Honorable General Dayton: Joseph Bloomfield

The third sentence plunged right into the beginnings of the recorded history of Jersey City: "The Bill to incorporate Powles Hook 'Jersey Company' passed Council Saturday" (that was November 10, 1804) Then follow references to a banking clause that had to be stricken out because of remonstrants among the Newark directors and shareholders and which was happily re-adjusted by the preparation of a separate charter for a $2,000,-000 branch bank; that had already passed the Assembly "and will in the course of tomorrow (November 13) pass Council." Alexander McLean tells us that the Jersey Bank was started here in the summer of 1805 as a branch of the Newark Bank and Insurance Company in that splendidly proportioned brick building still standing at the southwest corner of Greene and Grand Streets; that "it came to grief by attempting to evade a State tax in 1810, and was closed up by the sheriff in February of the following year." Perhaps some new light might be shed upon that later, also. The decaying building with its marble tesselated vestibule floor and massive walnut banisters give a suggestion of the Jersey City we might have been.

And then they thought of the roads. There they were, these dreamers of the town of Jersey planning for a time when communication had to be facilitated from the Hudson to the Delaware; of course travel would originate or terminate in the new town of Jersey. All they knew in those times was that two- or three-day hop to Philadelphia or two days to Trenton, in those celebrated "flying-machines," and here in that wonderful letter of Governor Bloomfield's, an historical document of the first magnitude, that has so miraculously come to our hands just one hundred and twenty-two years after he wrote it, is his own story of the very beginnings of all our Lincoln Highways and the thousands of miles of magnificent roads in New Jersey. "The turnpike bill passed at 5 this P. M. in Council unanimously": that was the glad news the Governor held for the postscript of his letter to General Dayton.

Mr. McLean tells us the turnpike story from another angle: that John Stevens had incorporated a company to build a road from Hoboken to Hackensack, and had improved the road from points now on our hill section to his new Hoboken ferry; and so they organized the Newark Turnpike to Jersey to save their own plans from injury. But they were planning to beat a bigger place than Hoboken: Governor Bloomfield is our witness now; and so also is that story about the Associates, pioneering in landscape architecture, planting 600 Lombardy poplars they had secured through the instrumentality of Andrew Michaux, the founder of the "Frenchman's Garden" here, and who had come to this country in 1786 with introductory letters from La Fayette to Washington, both of whom were friends of our Federalist Fathers, too. The charter for the Newark turnpike was granted December 1, 1804, and then the Associates laid out as the shortest distance between two points what is now our Newark Avenue

and whose diagonal course across lower Jersey City has been the occasion of reprehension by our 1894 historian.

WASHINGTON'S BIRTHDAY JERSEY CITY'S

The earliest date ascribed to the original promoters as the genesis of Jersey City, seems to be generally accepted as February 22, 1804. That was the day when Cornelius Van Vorst covenanted to convey to Anthony Dey, who had been authorized by his associates, Richard Varick and Jacob Radcliff to receive it. the title to the ferry and the 117.68 acres of uplands and meadows. The earliest newspaper reference to the new town quoted in our local annals is that of the "New York Gazette" of February 23, 1804: "We understand that Anthony Dey has effected a purchase of Powles Hook, from Mr. Van Vorst, on very advantageous terms. Richard Varick and Jacob Radcliff, Esqrs., with some others, are to be concerned. We have no doubt that the State of New Jersey, unless blind to their interests will grant to the Company the most liberal advantages, that they might ask: as in all probability it will soon become the capital of New Jersey"

That glorious company of Godfathers suggested in that list of the Associates had the good taste or the good fortune to choose Washington's Birthday (his 72d) for ours. Just how far back of that the Jersey adventure was in their minds we may know more definitely sometime, but it is not logical to believe that it was the work of a moment to prepare the papers, and organize the interest of that number of men, who would put that much money into the promotion. Certainly not the least consideration they had in mind was the appeal of the new town as a refuge from the terrible scourges of yellow fever that visited New York in those times.

Three times during the mayoralty of Richard Varick, New York suffered frightful devastation from it. In 1793, in four months, 4,044 were reported to have died; in 1795, there were 526 victims; in 1798 the deaths were estimated at 1,521; Colonel Varick's "dearly beloved brother" John died suddenly October 10 that year, although the cause of his death is not stated in the contemporary accounts. The "summer sickness" was a common euphemism. It is likely those numbers were far underestimated. Again in 1803 the pestilence came and in its train the misery and sadness of broken families and friendships. Commerce was at a standstill; the morale of the people was everywhere lowered. Alexander Hamilton knew what yellow-fever was; he outlived his attack in Philadelphia in 1793, when the conditions there were appalling. So when the prospectus of the new town of Jersey was written, we can better appreciate the appeal of those references to "its healthy situation, the hope of protecting it, by immediate regulations, against the dreadful scourge."

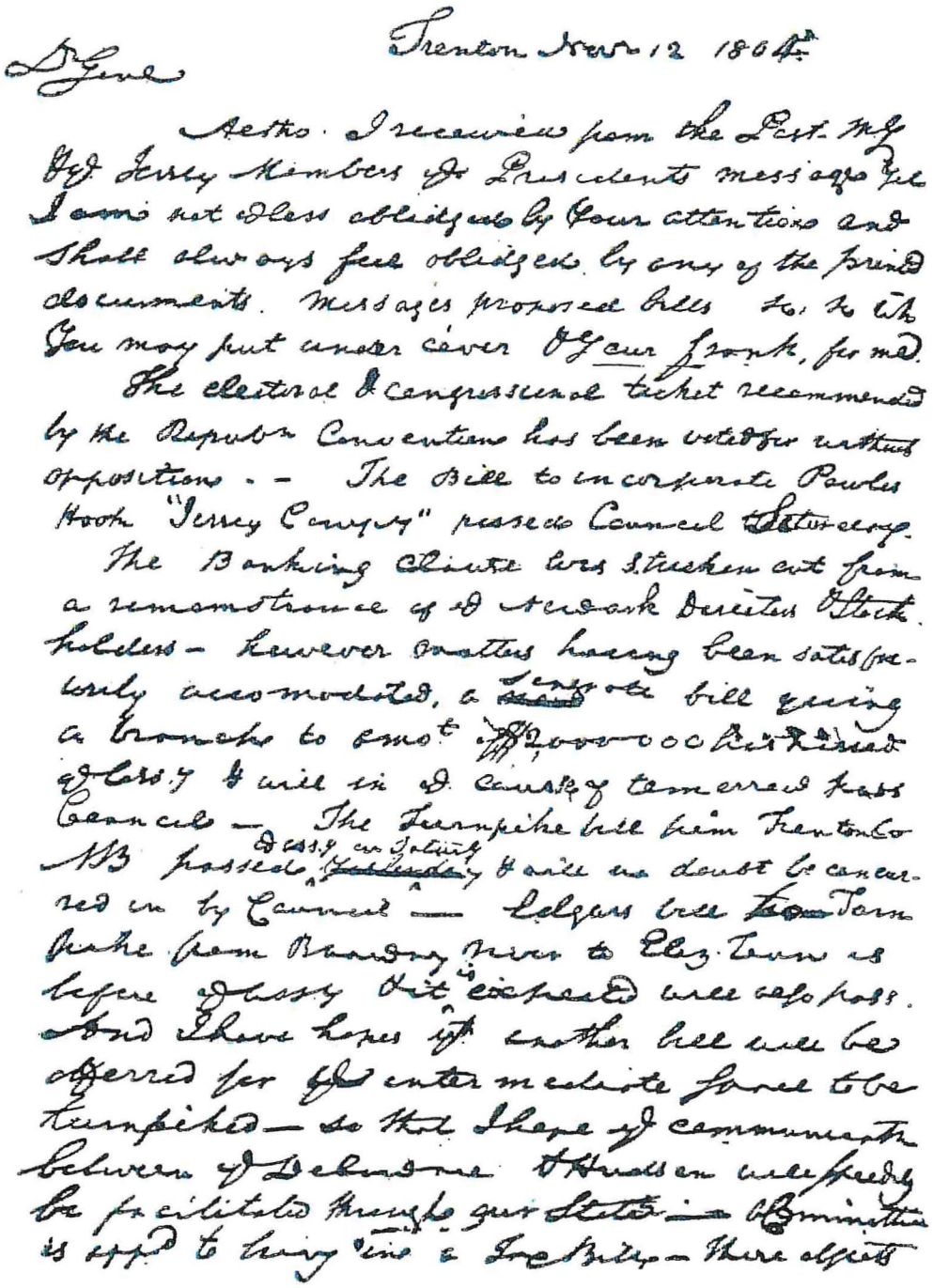
POLITICAL DEGENERACY

Whether a date as late as 1803, even, should be accepted as

the time when the Associates of the Jersey Company commenced to find cohesion, is no longer a subject for discussion. Unquestionably they were crystallizing at the time of that remarkable Chapter XI in Volume 2 of McMaster's History of the People of the United States entitled "The Downfall of the Federal Party" and covering the years 1798-1801. The filth of New York's streets and the vileness of its sanitation were as "odors of Araby" compared with the super-sliminess of the political methods used by those "statesmen" who in 1797 tried to destroy Hamilton by dirtiness that McMaster says with some mildness, "would have been shameful in a pimp." In 1796 the city of Paterson started to grow out of Hamilton's New Jersey Society for the Promotion of Useful Manufactures which he had chartered in 1791; Greenleaf's New York Journal, about the rottenest of the public prints of the day, referred January 14, 1797, to the new town at the falls of the Passaic as that "diminutive Jersey bastard." Most folks in New York at that time did not need a key to understand what the paper meant; they did not need to be told every day about the bar-sinister in the pedigree of the man they wanted to wound.

Political hatreds had reached a terrific climax as the curtain went down on the old century. The consequences of the elections of 1800, resulting in the deadlock in the electoral college giving 73 votes each to Thomas Jefferson and Aaron Burr; and Hamilton's part in the later choice of Jefferson set the country sizzling in its denunciation of the Federalists. Mobs in New England went wild as stump-speakers there declared that if Burr were elected President they "would arm, march to Washington and depose the usurper, and put Jefferson in his place." Fear of the Anti-Federalists, or Republicans as they called themselves then, of course had nothing to do with Hamilton's part in the election of Jefferson, but that bit of politics had a great deal to do with the course of Hamilton's life in the next few years.

All through that intensely bitter political campaign in the first half of 1801 the crystallization of the friendships that went into the formation of the Jersey Company is plainly discernible. A paper called the "American Citizen" was the foul mouthpiece of the Republicans then. The indecencies of its utterances would be beyond belief, if one had not leafed over the files now preserved in the New York Historical Society. The Federalists had named their candidates for the major State offices and for the legislature at "a large and respectable gathering of citizens" at the Tontine City Hotel, Broadway, April 10. John B. Coles was chairman of the meeting and Samuel Boyd, Secretary. William Walton Woolsey and Cadwallaver D. Colden were two of the 14 candidates for the Legislature. Those four were to be later identified importantly with the creation of Jersey. "The blubberings of Sam Boyd" in the next few weeks, particularly, were the occasion of of ribald and facetious comment in the "Citizen." It was a high honor to have been able to sting the "Citizen" so to get a kick like "Sam" did!



Dear Gen

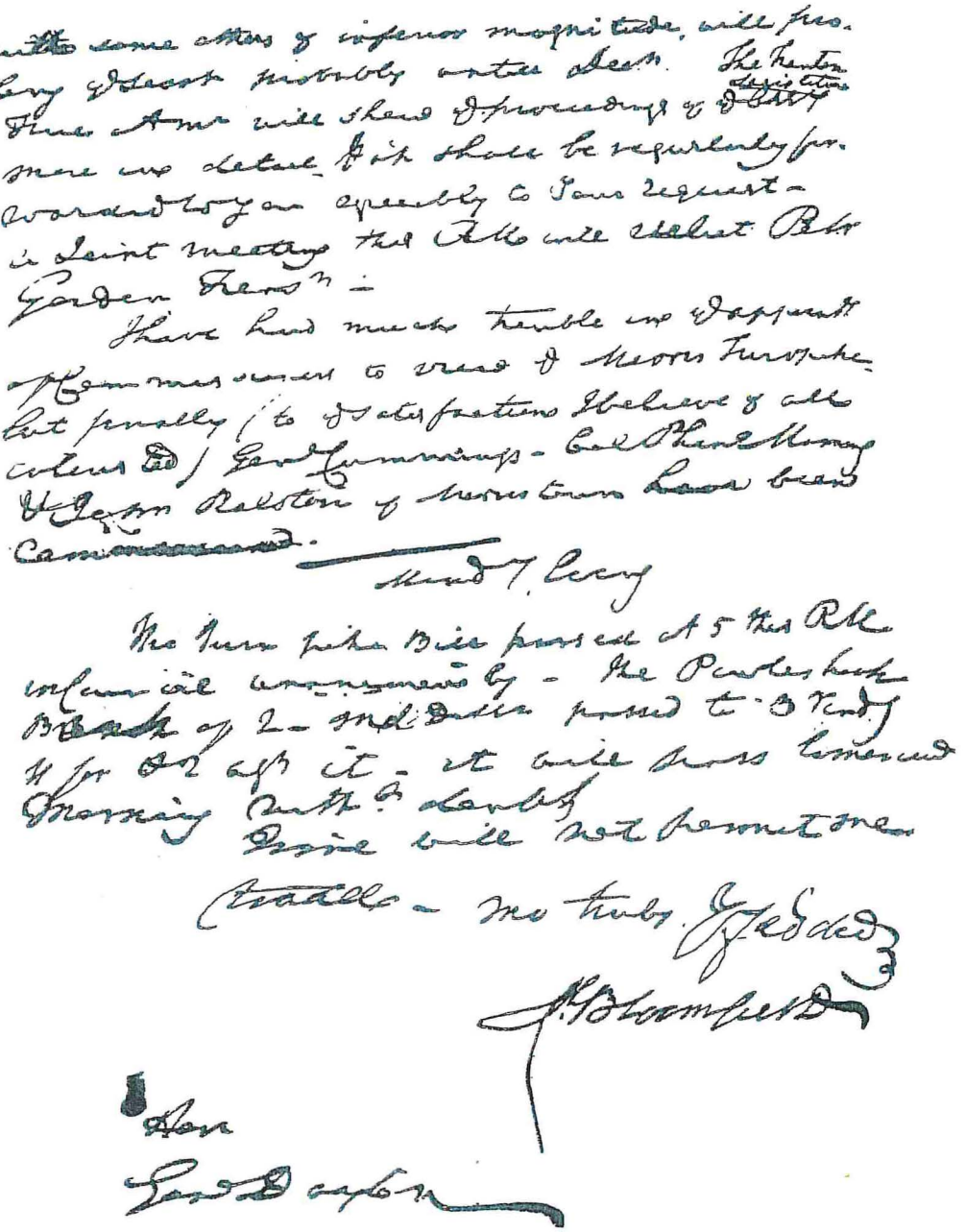
Trenton Nov 12 1804

Acctd. I received from the Post Mg Genl Jersey Members & Presidents message yet I am not less obliged by your attentions and shall always feel obliged by any of the printed documents. Messages proposed bills &c. &c which You may put under cover of our Frank, for me.

The electoral & congressional ticket recommended by the Republn Convention has been voted for without opposition. - The Bill to incorporate Paulus Hook "Jersey Company" passed Council Saturday.

The Banking Clause was stricken out from a remonstrance of the Newark Associates & Stockholders - however matters having been satisfactorily accomodated, a Supplement to the bill giving a Branch to Newark passed Council Monday & will in the course of a few days receive the Governors sanction - The Turnpike bill from Trenton to Newark passed Assembly on Saturday & will no doubt be concurred in by Council — Belgers bill for a Turnpike from Rahway River to Elizabeth Town is before Assembly but expected will also pass. And there hopes of another bill will be offered for the intermediate space to be turnpiked — so that there is a communication between Philadelphia & Delaware to Hudson will speedily be facilitated through our State — Committee is appd to bring in a Supplement — There objects

Of course Mayor Varick got his share of abuse. As he had an extremely busy campaign on his hands, maybe he never read the stuff at all and if did, maybe he laughed at it; we did not notice any newspaper murders reported in those days. In its issue of April 25, 1801, was one of the nastiest of its slams at the Mayor, about three-quarters of a column long. It was titled "Aula Justitiae," and it purported to be an abstract from the minutes of "the court held in this city for the correction of vice and the investigation of character. Truth, Liberty and Justice on the Bench." The article was a travesty on the proceedings



Letter from Governor Joseph Bloomfield to United States Senator General Jonathan Dayton announcing the incorporation of the Powles Hook Jersey Company.

of the Mayor's Court, now recognized as a most dignified and capable and highly necessary institution in New York. Various individuals under pseudonyms that made their identity in the life of those times apparent enough, were haled before the Bench. After they had made their confessions, John the Marshall would be ordered to take them out for punishment. "Sir Richard the Pig" was called in his turn. The brainstorm of the man who composed the villainous screed lasted long enough for him to produce about 150 words. "Sir Richard" is pictured at the end of the investigation of his character as exclaiming, "I like to drink hot blood and mock at calamity. I hate the poor. Money

is my God, and it's that alone can make the mare go." Then John the Marshall was ordered to take him out and lodge him in chains with the other convicts.

Two days later the "Citizen" printed a "Communicated" article, three or four inches long, mentioning no name at all but an omission like that wasn't important to its readers in that particular reference. It commented upon the current activities of "the little royal bantam cock imported when a chick from the West Indies whose pedigree has never been traced, but believed to be of the Dominico breed; he once had the pip, owing to frequent roaming among neighbor hens in the presence of their roosters" and so on, ad nauseam. "The Little General and his band of uniformed bullies"; "Citizen" Hamilton; "Alexander the Little"; gems like that sparkle all through the muck of the "Citizen" in that campaign.

But the depth of degeneracy certainly was sounded in one of those "communications" printed in the "Citizen" of June 20, 1801. Its so-called contributor alleged that he found it among the papers of an eccentric individual who had just died; it was apparently his last will and testament. Blasphemy was just as commonplace to the editor of the "Citizen" as plain lying, so he started it off with the usual solemn formality ordinarily used in such instruments. There were a number of bequests to people eminent in public life of the day, and as two of those individuals were men in the horizon of our group of Founders, Jonathan Dayton and Alexander Hamilton, it is curious to see that the editor of the "Citizen" thought something should interest them. The obscenity of the bequest to Alexander Hamilton is printed in full, in plain language. Again, no "justifiable homicides" were observed in the current journalistic literature.

This sort of filth was pumped through the columns of the "Citizen" and into the eyes and ears of its readers as from an unfathomable cesspool all the spring and summer. Anthony Dey was in the picture too, because the "Citizen" said he wanted to charge $5 for starting a suit to collect every 5-shilling fine; Josiah Ogden Hoffman was in the same condemnation because he thought $5 was a proper price for a fee. The Federalists were aristocrats, monarchists. Thomas Jefferson was the real, simon-pure, dyed-in the-wool, all-American patriot; Aaron Burr as Vice-President, was "His Excellency" when he paid an official visit to the frigate "New York" then lying here. Possibly Aaron's chest expanded when he was called "His Excellency" by the same paper that alluded to him whom they thought an infinitely greater man by the Republican title of "Citizen."

The Federalists were beaten that year in New York. It was not until August 15, 1801, that the new Republican "Council of Appointments" began its deadly work. Then the Federalist newspapers began to bristle with such words as Marat, Danton, Robespierre, tyrants, despots. The very first head to fall was that of Richard Varick. The announcements of the suspensisons,

dismissals, supersessions, went on for weeks and the fires of New York journalism were blazing hotter and hotter. Martha Lamb's History of New York tells of the indignation of Colonel Varick's friends—and that is a pretty tame word to use that way—when he was turned out after 12 years incumbency as Mayor, and of the dinner tendered him by his Federalist lawyer friends at which 25 toasts "surcharged with political satire" were drunk.

Perhaps some day we may have the high privilege of reading a close-up account of that function, but until then we shall have to content ourselves with the suspicion that at least 10 of the guests were some of the very big lions so bravely bayed by a very small cur. and that their names are to be found on our list of the Associates of the Jersey Company and of friends importantly interested in it. While it may not be competent historical information, it is more than a reasonable surmise that Richard Varick, Alexander Hamilton, Josiah Ogden Hoffman, Jacob Radcliff, Anthony Dey, John B. Coles, Samuel Boyd, Cadwallader B. Colden, William Walton Woolsey and Jonathan Dayton, were among those present at that scintillating celebration when the lineaments of the new metropolis were converging more clearly to a focus.

SOME SPLENDID JERSEYMEN

Now as to the group of New Jerseymen whose names appear in the list of the Associates of the Jersey Company and in that special group: one is simply at a loss to know where to start even the barest mention of their prodigious public service in the time of the creation of our National entity. Governor Joseph Bloomfield was not a Federalist, but an avowed Jeffersonian; (to show the curious state of the political mind in that day, a Bergen County jury found an indictment of murder, at the direction of Elisha Boudinot, "a most vehement Federalist," against Aaron Burr for the killing of Hamilton, and Governor Bloomfield was influential in having it nolle prosequied: one group did; the other undid, and most liberally. Lucius Q. C. Elmer was a Jeffersonian. Mr. Elmer's book of "Reminiscences" is probably the best New Jersey authority extant for showing how these men foregathered—Elisha Boudinot, Theodore Frelinghuysen, Alexander McWhorter, Aaron Ogden, James Parker, William Sanford Pennington, Richard Stockton, Isaac Halstead Williamson, and so on. His recollections were pursued until after the Civil War period and when time must have softened his own personal partisanships, but even then it has crept into his narrative occasionally. In those marvelous biographies of the great men of New Jersey whom he delighted to honor so much, he writes most delightedly of at least 10 of our Federalist Fathers and their trusted friendships.

Mr. Elmer tells how, after 1801, when the great debacle came, there was scarcely one eminent lawyer on the Republican side. He himself espoused the cause of Jefferson because he believed that Thomas Jefferson was the man who in the providence

of God was qualified to lead the country in the forward movement of that time. He clinched his own argument against the Federalists and their recognized leader, Hamilton, with this quotation from Hamilton's letter to Gouverneur Morris in 1802, in which Hamilton was alleged to have designated the constitution as "A frail and worthless fabric." There are quite a few choice Jeffersonian commentaries, of the same period, that are available nowadays and that are no less interesting in that connection. Most of the educated men, the men of property in this State, were then Federalists; they held all the offices, and when the power was wrenched from their hands in spite of their strenuous efforts to regain it, their feelings, he thought, in his book, were hardly to be appreciated.

In his survey of the life of Richard Stockton, who he said was easily at the head of the New Jersey bar from 1818-28 when Mr Elmer knew him, he tells us that Mr. Stockton was "a very decided Federalist of the Hamilton school, and when that party became the minority one in this State, as it was during most of his life after 1800, he of course shared their fate in being excluded from official position." That is an extremely interesting commentary upon the contemporary outlook of our friends among the Federalist Fathers, particularly since most of them, both from New Jersey and New York, had played no slight part in wresting our country from the oppression of England, and in the opinion of careful historians of today were the ones who really established in it the principles that have made it endure to this day. At the end of hardly a score of years—and here was the party of Jefferson already "excluding them from official position!" The newspapers of that generation are full of it.

Elisha Boudinot was a most distinguished man and lawyer; Richard Stockton (son of the signer) studied law in his office; Alexander C. McWhorter and Josiah Ogden Hoffman were law students in Newark in Mr. Boudinot's day! Isaac Halstead Williamson, Governor and Chancellor from 1817 to 1827, was renowned even to Mr. Elmer as the "most thoroughbred lawyer at the Bar of New Jersey," and he was known early in life as a Federalist and "he never attempted to deny or conceal that fact" (it seems as if he ought to have been ashamed of it!) James Parker lived to be 92, and he was another Hamiltonian Federalist —incidentally, one of the men who served on all three of our Legislative commissions, of 1807, 1827, 1833, to settle the Boundary Dispute; Colonel Aaron Ogden—well, what character in fiction could give us greater thrills than his! From his young manhood, when he participated in that wild escapade resulting in the hand-to-hand capture of a British supply ship off Sandy Hook in January 1776, and all through the war, often personally praised by Washington and LaFayette and Congress for his gallantry and the brilliancy of his exploits, and living so long that hardly any one else remembered them, suffering imprisonment in New York for debt and dying at last in Jersey City in 1839; William Sanford Pennington, Governor and Chancellor from 1813

COLONEL AARON OGDEN

Governor of New Jersey 1812-13

From the A. B. Durant portrait.—Courtesy of N. J. Historical Society.

to 1815—but a soldier in the Revolution long before that and a table-guest of General and Mrs. Washington's once, was also a law student in Elisha Boudinot's office, but he espoused the Republican cause in 1802; John Rutherfurd, a law student of Richard Stockton's, with all his intellectual culture, interlaces his life in the same distinguished environment.

The delightful rambles into these alluring by-paths of memory, as conjured up by Mr. Elmer in the atmosphere of his incense-breathing book are infinite in their variety, but the more we study them the more vividly can we discern the reasons that motivated the founding of the new town on our shore of the Hudson River.

THE NEW TOWN VISUALIZED

There is plenty of detail more thrilling than any figment of fiction that could be filed in, in the next few years of the real lives of those men, writhing as they must have been under the turn of fate that seemed to be threatening the whole National fabric. But they were fighters by birth and breeding and the matter of winning may not have been so important to them as just being in the game. In those few years the eyes of the country commenced to open to the fact that trade, travel and population were not static; clearly, our group of Associates in the unfriendly atmosphere of New York were ready for the manifestation of the new Metropolis.

A rather extended review of the operation appeared in the Newark "Centinel of Freedom" of March 13, 1804: "We understand that Anthony Dey, Richard Varick and Jacob Radcliff, Esqrs., of the City of New York, have obtained of Mr. Van Vorst, a perpetual lease of the land and premises known by the name of Powles Hook. Application has been made to our Legislature for an act of incorporation for themselves and associates, and leave given to present a bill at the next sitting. It is contemplated to level the place and lay out a regular planned city. It will be divided into 1,000 lots valued at $100 each, requiring of every adventurer six per cent, which amounts to $6,000 equal to the sum agreed to Mr. Van Vorst annually.

"We further understand that some of the most wealthy and enterprising citizens, both of New York and this State, have embarked in the undertaking; and who knows but that a very few years will make it the emporium of trade and commerce in the State of New Jersey."

It seems strange that none of our local historians have ever elaborated upon the naming of many of the streets in our old town as shown on that Mangin map displayed in the Tontine Coffee House—perhaps not so strange, since none has ever given the real story of its starting, nor even connected those "wealthy and enterprising citizens" with the group of men who had been our Nation makers. When one tries to visualize our street nomenclature in the terms of these life-long friendships, when and where did the town of Jersey really begin? Certainly not

on the day when a New York surveyor put a date on a map! How many bloody fields in Indian warfare; how many dreary, desolate winters with snows crimsoned by barefooted soldiers; how many fateful campaigns, long marches, weary years, before men were found worthy and well-qualified for them to remember —and how we have forgotten!

What fancy could have been more exquisite than that of keeping alive the fires of their patriotism, and inspiring that of generations yet unborn, sauntering along streets named for their familiar friends, for their own heroes! Washington, first in the hearts of these our countrymen; Montgomery, that they would never forget the hero of Quebec; Wayne, to recall the dash of his intrepid exploits; Mercer, so that they would have Washington's friend of the Braddock campaign, their friend also, killed at Princeton, always near; Steuben, so that their world would know about the man who created the first army of all-America; Morgan, so that the deeds and daring of his riflemen would be a household treasure always; Warren, to speak to them of the hero of Bunker Hill; and Greene—all through that Monograph of 1891, the great tactician of the Revolution is relegated to oblivion in the name of a street spelled G-r-e-e-n. John B. Coles remembered Alexander Hamilton a little later when laying out a park in his town of Pavonia.

The northern boundary of the town was plotted as Harsimus Street; next came Bay Street. They were the two north of Morgan Street. Their appropriateness has been obliterated long ago, when the beautiful Harsimus Bay, once famed for its oysters and fishing, was filled in mainly with dumpage and offal from New York streets and slaughter houses as a result of the railroad terminal legislation of 1868. (What a terrific blow to Jersey City that was! Communipaw Bay went at the same time, and Jersey City's Hudson waterfront commenced to narrow down to Morgan Street dock.) Five of the streets south of Montgomery were named, York, Sussex, Essex, Morris and Bergen, doubtless as a compliment to the residential seats of members of the Company.

The thought of the "Church Grounds" sems to have been another idea that our modern critics of the Jersey Associates might have treated with some facetiousness. But there they are, plotted on that old Mangin map of 1804, and they speak just as definitely as the signs we put up at our street corners tell of their patriotic fellowships, of their own belief that "unless the Lord build the house, they labor in vain that build it." Our students may find some day some town more nobly planned to reflect the patriotic and religious idealism of its Founders, but we doubt it; we think it is unique in American Civics.

NEW YORK'S FANTASTIC CLAIM

There was another line or two in the prospectus that brought some startling reactions. The Company held out the inducement of "an easy and free navigation" as a reason for coming to Jer-

sey. Almost instantly New York answered that with that amazing, fantastic claim to ownership of the Hudson up to the low-water mark at least, on the Jersey shore!

On April 19, 1804, the three proprietors were writing a formal request to their counsel for an opinion on it. On May 3, Alexander Hamilton and Josiah Ogden Hoffman replied that New York's claim was untenable, of course. Then New York's corporation counsel, Robert Troup and Richard Harison, gave their Mayor and Aldermen an opinion diametrically the opposite. On June 4, 1804, the New York Corporation made the fateful announcement that anybody who made improvements, constructed wharves, etc., between high and low-water mark on the west side of the Hudson without getting their consent did so at his own peril. The chronological arrangement of those dates is interesting.

From the notices of the "New York Evening Post" and other newspapers quoted in the Monograph, one cannot escape the impression that the enterprise at Powles Hook was not getting along quite as well as expected. The sale of lots announced for April 12 did not come off; neither did that of May 15 and 16, but the "Post" pleasantly excused that because the artist was taking too much time with the map he was preparing. The next one, advertised for June 12, 13 and 14, according to the deductions of Mr. Winfield, was badly messed up by the races and the gamblers at Mr. Van Vorst's track. Altogether only seven lots has been disposed of in May and June, 1804.

On June 4, 1804, the Common Council of New York had issued the following warning: "The Board having been informed that sundry persons have lately undertaken to construct wharves within the bounds of this city between high and low-water marks or the west side of Hudson River, without any authority for so doing from the people of the State of New York, or from this Board, do hereby give Public Notice, that such encroachments being made without their permission or consent must be at the peril of the persons concerned."

Twenty days later, on June 26, 1804, the New York authorities issued this new manifesto:

"Whereas sundry persons, Inhabitants of the City of New York, have become the proprietors of Powles Hook and other parts of the Western side of Hudson River and are disposed to make valuable improvements thereon, and we being willing that said improvements should progress, being of opinion that the same would greatly tend to the convenience of the inhabitants of this city in case of a return of the epidemic, and

"Whereas, the late publication of a resolution of this Board has tended to impress the public with sentiments of hostility of this Board with respect to such improvements;

"Therefore Resolved, that this Board entertain no sentiments hostile to the interest of the Proprietors aforesaid, and that the Common Council will give them every facility in mak-

ing improvements not inconsistent with rights of this State or those of the Mayor. Aldermen and Commonalty of the City of New York."

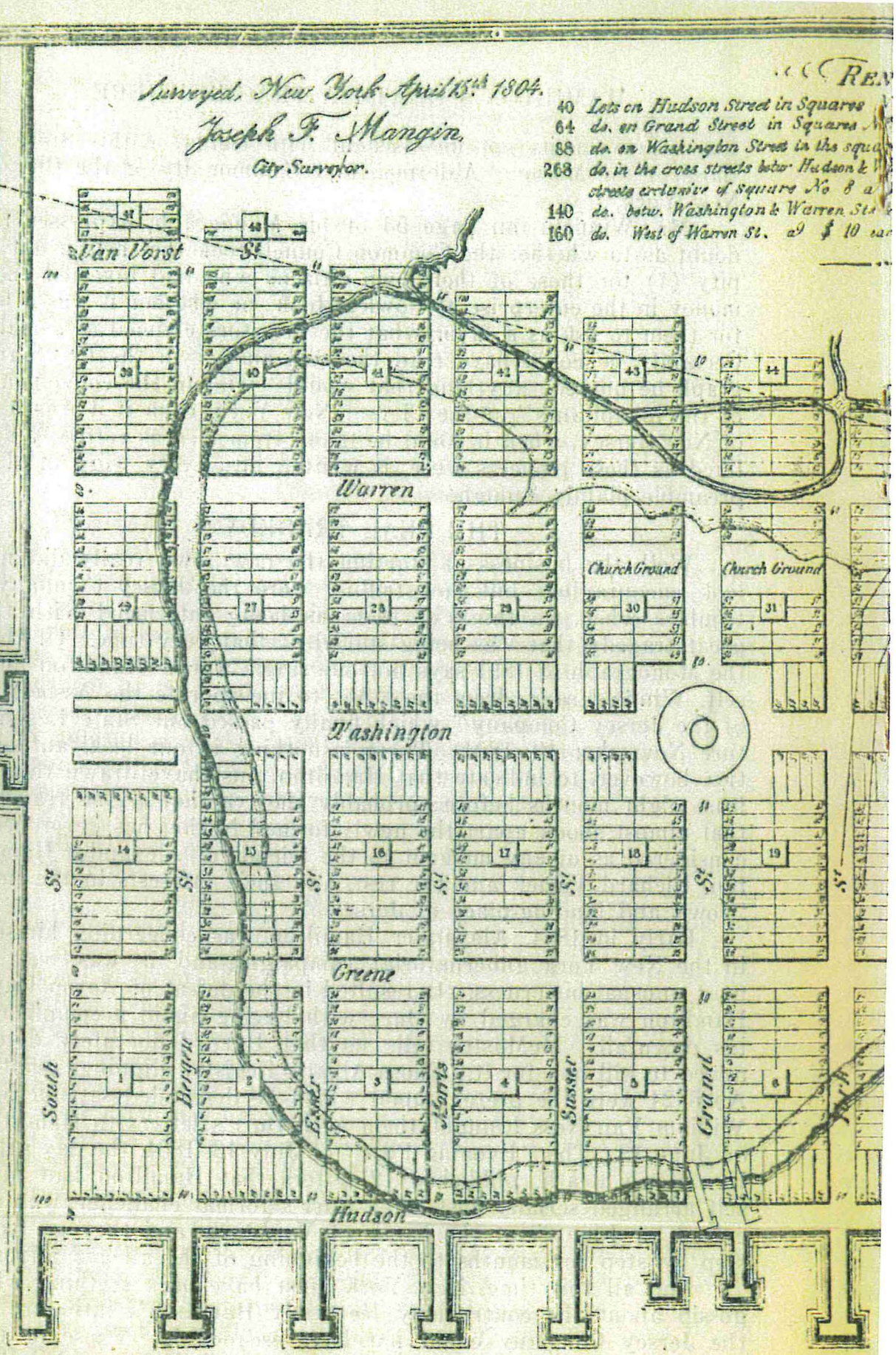
Mr. Winfield, on page 53 of his Monograph, expresses the doubt as to whether the Common Council took that action out of pity (?) for those of their own citizens who had invested their money in the enterprise at Powles Hook, or whether it was a bid for them to ask as a favor what the investors claimed as a right. Certainly he could have read the real answer in the first paragraph he quoted: anything that would "tend to the convenience of the inhabitants" of the City of New York, even if it was half of New Jersey, when it could be taken from men as cordially disliked as those pioneers were, is written into every word of that preamble plainly enough!

THE REAL TRAGEDY

Well, the business of starting the new town really did not look encouraging; but how trifling were the Jersey Company's troubles when we think of them as being interlaced with the great tragedy that was being staged at that very time. Of that the Monograph of 1891 says not one single word. Hamilton himself, Winfield says, drew the "Act to incorporate the Associates of the Jersey Company" which finally passed our State Legislature November 10, 1804. There is nothing in our local authorities, however, to indicate that Hamilton must have drawn this at least eight months before; probably the reaction of the tragedy that almost shook apart the newly-formed Nation has never been considered as of any moment to the friends of Alexander Hamilton, Richard Varick and the rest, and their interests in the new "town and landing-place of Jersey."

Early in 1804, Alexander Hamilton was concerning himself in the New York gubernatorial campaign, and it was one of most unusual bitterness. It resulted in the defeat of Aaron Burr. Hamilton was charged by Burr with having again accomplished his downfall. McMaster tells us that Burr deliberately determined to kill him for it. Those Albany Register clippings printed April 24 were the pretext upon which he demanded satisfaction. William Van Ness brought them with Burr's letters to Hamilton or June 18. The "Evening Post" of July 13, 1804, the day after Hamilton's death, published 12 letters that Hamilton had himself arranged serially just after Burr's formal challenge was received on June 27 at the hands of Van Ness, and they go back step by step for months to the beginning of the alleged affront.

And all this time, New York must have been seething with gossip about the controversy; certainly Hamilton's intimates in the Jersey Company could not have escaped it. Those of the Company who were members of the Cincinnati had attended that momentous last meeting on July 4; it would seem incredible, impossible, that that bloody business had to go on! But that was the code. When the time came for his obsequies, New York, the whole Nation, paid unprecedented honor to Hamilton. Richard



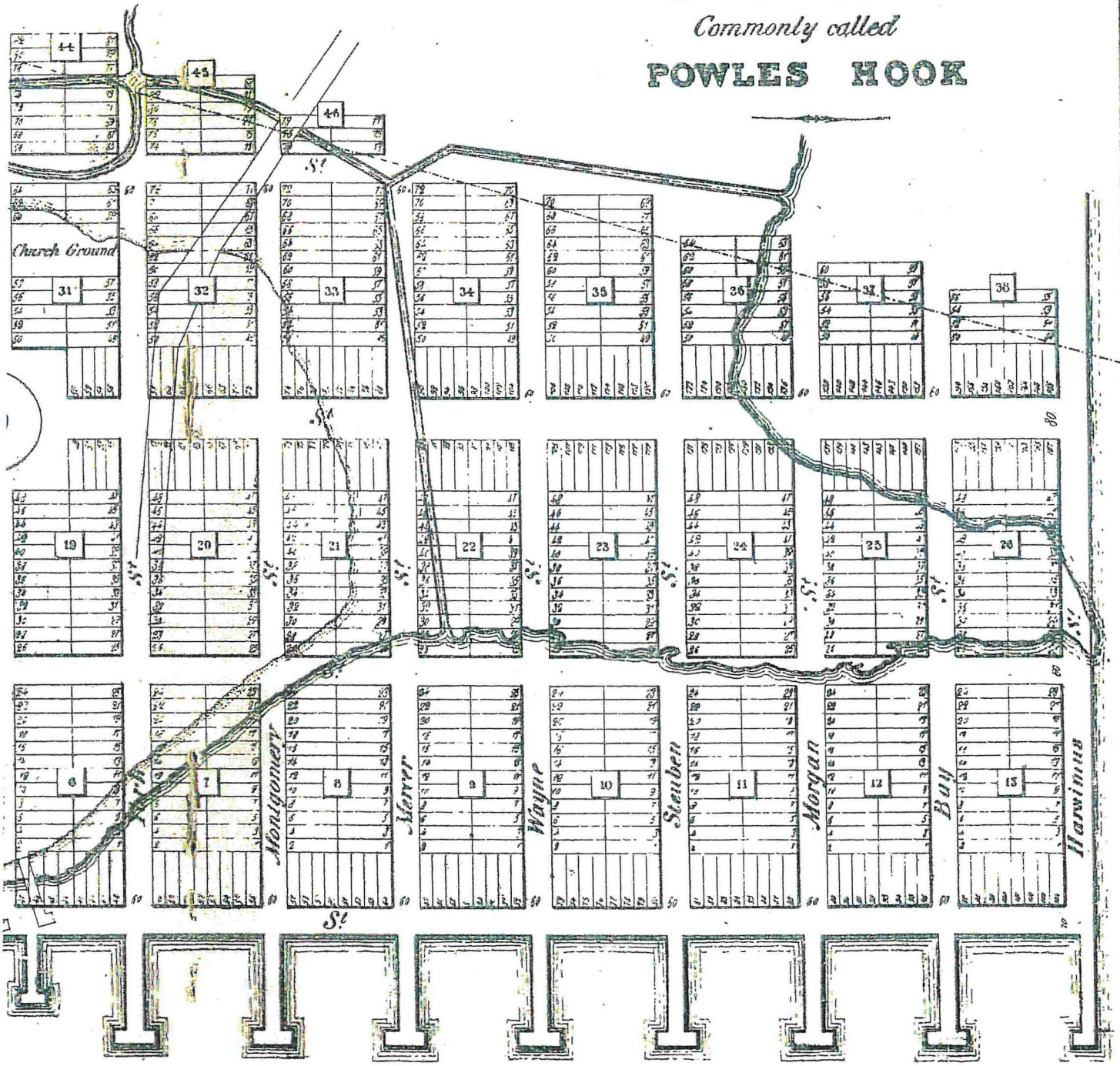
REGULATION

The centre of the Intersection of Washington and Grand streets
The East side of Hudson street is to be 4 feet above high wat
conformable thereto, as the owners of the ground shall And

RENT CHARGE

Street in Squares Nos. 3, 4, 5, 6 & 7 a $ 20 each — $ 800
Street in Squares Nos. 5, 6, 18, 19, 30 & 31 a $ 15 each — 960
Street in the squares betw. Bergen & Mercer Sts a $ 15 ea. — 1320
Streets betw. Hudson & Washington Sts. & between Bergen & Mercer
of Square No 8 a $ 12 ea — 3216
Washington & Warren Sts & betw. Bergen & Mercer Sts a $ 10 ea. — 1400
Warren St. a $ 10 each. — 360
— $ 8056

A MAP
of that part of the Town of JERSEY.
Commonly called
POWLES HOOK



GULATION OF THE GROUND.

d Grand streets is to be about 22 feet above high water mark.
above high water mark and the other Streets from time to time are to be made
and shall And convenient.

Varick and Josiah Ogden Hoffman were among the bearers appointed for that final gesture of respect for their dead friend.

Burr's newspaper mouthpiece at that time was the "Morning Chronicle," for which "Mr. Irving"—Washington Irving—was a writer, and to him Mr. Coleman of the "Post" paid some caustic compliments in the next few days after Burr disappeared from his haunts in New York. It may be an interesting speculation as to whether Irving's fun over the "Harsimites," as he calls our early Jersey citizens, who really did not talk Dutch at all; and Major Hunt's story-telling, etc., etc., as incorporated in the Salmagundi Papers in 1807, was considered funny by Richard Varick and his friends of the retarded enterprise.

It is perfectly plausible that the affairs of the Jersey Company might have dragged a little that first summer for other reasons than the ones we have been led to believe were responsible. On pages 66, 67 and 68 of the Monograph, there is a sorry recapitulation of disappointments that had come to pass. It might have been possible that the vindictive bullet that laid Alexander Hamilton low struck down the spirit of the place they had all dreamed. Certainly, had Alexander Hamilton lived, the shameful and ridiculous contention of New York that no one could use the Hudson except at their sufferance never would or could have been maintained for a generation after.

CYNICISM OF NEW YORK

The story of that quarter-century of pettifogging, evasion of the issue, defiance of the authority of the Supreme Court of the United States on the part of New York, was discreditable enough in the making, and at this far perspective, it makes one's Jersey blood boil to read it. Isaac Halstead Williamson, one of the three Governors of New Jersey in the roster of Associates, was in office when the third attempt of New Jersey to settle the question by Commissioners had failed. In 1828 he caused to be printed a 64-page pamphlet reciting the status of the controversy up to that time. His own classical contribution to the literature of the dispute was augmented by a brief for New Jersey's title to her share of the Hudson River prepared by Richard Stockton, a masterly document in itself, that Mr. Elmer says is the only production of Mr. Stockton's he ever remembers to have seen in print.

The final yielding on the part of New York, of what was the most highly important point at issue was most surprising; commotion created by oystermen had almost threatened "war between the States"; and in a surprisingly short time the boundary dispute was over. But it brings back the question why the claim in the first place? The last active leader, perhaps the real inspirer of Jersey, Richard Varick, had passed away a little while before (in 1831); Colonel Aaron Ogden and Anthony Dey, both were living and William Walton Woolsey perhaps, still lingered, the only survivors of the group that had dared to question New York's claim to "the harvests of the seas," that she then

insisted were hers alone and would not be shared by any one else. Now they were all gone; there was none left to punish, and in 1833 New York agreed to the boundary line that God had set in Time's beginnings.

The sublimated cynicism in that "resolve" of the Common Council of the City of New York of June 26 1804, wherein the lofty virtue of the Board in New York was being paraded, seems to have escaped the attention of our people for too long a time. There can be no question now that the men who conceived that untenable claim to the sole rights in the river, did so in their iniquitous hatred of men they wanted to ruin. No other canon of historical criticism can be applied to their action.

There is no other possible interpretation of the situation today: the opinions quoted by Robert Troup and Richard Harison were based upon authorities that were unsound, upon facts that were not so, as admitted by the fact of that final Boundary Treaty in 1833. When the Common Council "Resolved that this Board entertain no sentiments hostile to the interests of the Proprietors aforesaid" they—well, they were not tell the truth. The New York Republican papers of that era fairly stink with the scurrility and abuse of the hated Federalists in general, and in particular of that especial group of men who had the temerity to champion the founding of the new town across the Hudson.

It is just as absurd to speak of the "failure" of the Associates of the Jersey Company, as it is to think of Washington in connection with an unaccomplished America, because he died with the noise of sectional dissension and the din of local insurrections almost in his ears. The vision these Federalists saw in Jersey, was a city that would ultimately rival the New York they knew, "cabin'd and confin'd" on the nose of Manhattan, but happily most of them did not live long enough to hear they had established an imperium in imperio, and that they were going to be called some day the "old man of the Mountain, obstructing all enterprise," and all that sort of thing. That the Jersey City of our day is only three times the size of the New York of their day, when it could and should have been ten times as big, is in no wise due to their lack of vision, or provision for its growth, or defeat in any sense.

They were the first to challenge and defy an unfriendly political authority, and they paid the price pioneers, trail-blazers, have always paid in history.

Alexander Hamilton Drew the Charter

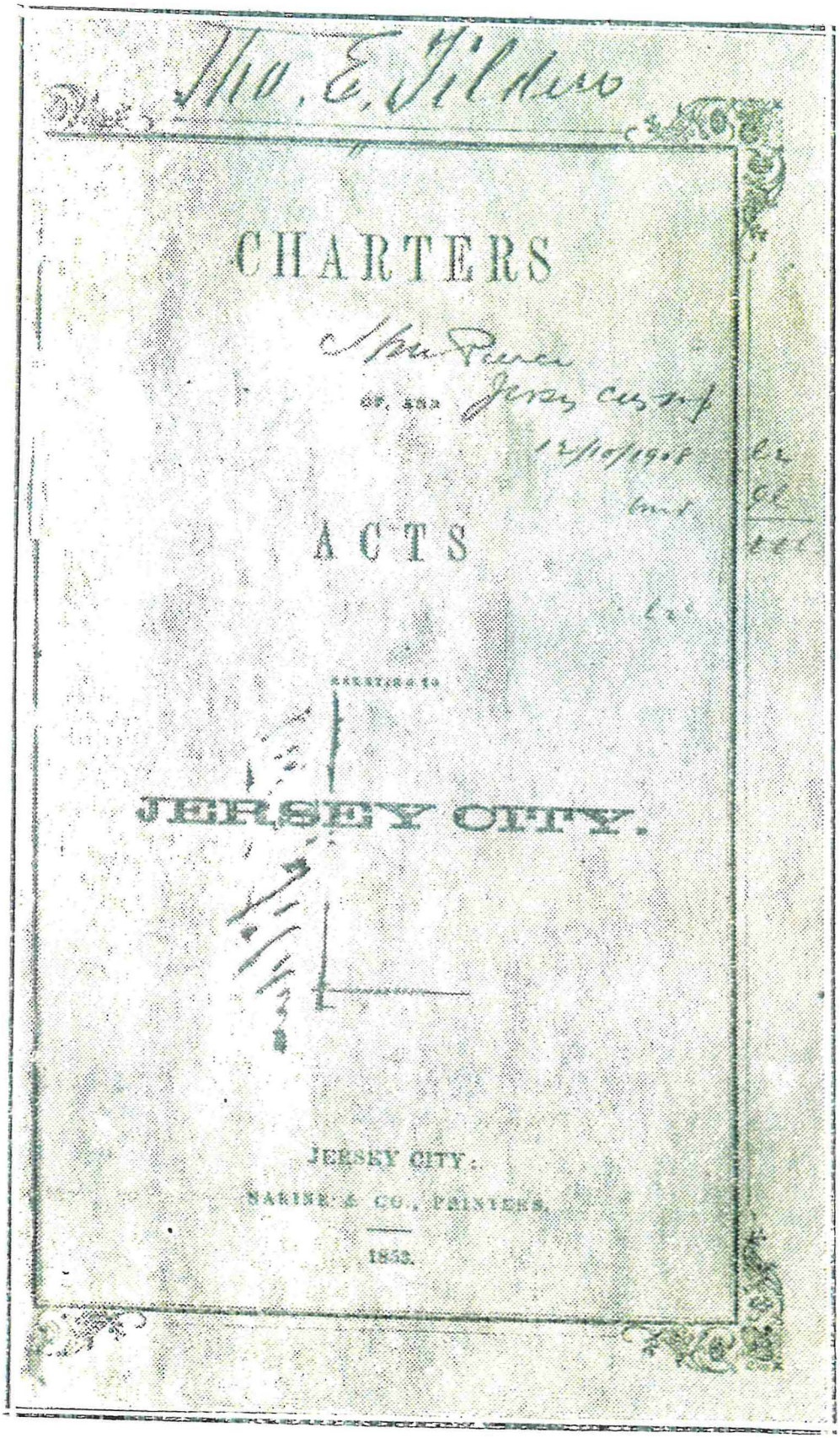
STATE OF NEW JERSEY:

AN ACT TO INCORPORATE "THE ASSOCIATES OF THE JERSEY COMPANY"

Whereas it is represented to this Legislature, that Richard Varick, Jacob Radcliff, and Anthony Dey, have become the proprietors, by purchase, from Cornelius Van Vorst, of all that certain tract or parcel of land and meadow, situate, lying and being in the township of Bergen, county of Bergen, and State of New Jersey, commonly called Powles' Hook; bounded on the East by Hudson's River; on the North by said river, or the bay commonly called Horsimus Bay; on the South by said river, or the bay commonly called Communipaw Bay; and on the West by a line drawn from a stake, standing on the West side of the small creek, on the Southwest side of the said tract, (from which stake, the flag staff on Ellis's Island bears South, one degree twenty minutes East, and from which the chimney of the house of Stephen Vreeland, on Kaywan, bears South, fifty-six degrees ten minutes West, and from which the steeple of the Bergen Church bears North, fifty degrees twenty-five minutes West;) North twenty-six degrees thirty minutes, East to Horsimus Bay aforesaid: Together with the right of Ferry from the said tract or parcel of land, across Hudson's River and elsewhere, and the right and title of said Cornelius Van Vorst, under the water of the Hudson River, and the bays aforesaid, opposite the said premises, as far as the right of the said Cornelius Van Vorst extends. And whereas it is represented, that the said Richard Varick, Jacob Radcliff, and Anthony Dey, have divided all the said premises into one thousand original shares, and have, by certain articles of agreement, associated and become associates in interests with divers other persons in the said shares, and the said associates having presented a petition to the Legislature, praying to be incorporated for the purposes hereinafter contained, and such prayer appearing reasonable:

1. Be it therefore enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same, That the said Richard Varick, Jacob Radcliff, and Anthony Dey, and the said other persons interested with them in the said premises as aforesaid, shall be, and hereby are constituted a body corporate, by the name and style of "The Associates of the Jersey Company," and by that name shall be known in law, and have power to sue and be sued, and to defend and be defended in all courts of law and equity, and in all actions and matters whatsoever, and may have a common seal, and renew and alter the same at their pleasure, and by the same name shall be, and hereby are made capable in law, to have, hold, purchase and enjoy to them and their successors, lands, tenements, and hereditaments, goods, chattels and effects, of what nature or kind soever, and the same to grant, demise, alien or dispose of at pleasure, for the benefit of the said associates and thir legal representatives, in proportion to their respective shares as aforesaid: Provided, That the lands, tenements and hereditaments, which it shall be lawful for the said corporation to hold, shall only be the said tract and premises herein before described, with the privileges and appurtenances aforesaid, and such as shall have been bonafide mortgaged to the said corporation by way of security, or conveyed to it by way of satisfaction, for debts previously contracted, or purchased at sales upon judgments which shall have been obtained for such debts.

2. Be it further enacted, That the said associates and their successors, shall have power to make and lay out all streets and squares upon all and every part of the said premises, and to establish such as have already been laid out, and from time to time to regulate the same, and to direct and govern the levelling, pitching and constructing of the said streets, and the raising and the levelling of all lots and grounds for buildings, as well public



CHARTERS

AND

ACTS

RELATING TO

JERSEY CITY.

JERSEY CITY:
MARSH & CO., PRINTERS.
1853.

ALEXANDER HAMILTON, 1757—1804
From the Original Painting by John Trumbull

as private; and to order and regulate the building of all docks, piers and wharves, and all store-houses and buildings thereon, and generally to make such by-laws, orders and regulations, touching all and singular the said matters, not inconsistent with the constitution and laws of this State, and of the United States, as to them shall appear proper and necessary, and to enforce the same by any penalty or penalties which they may prescribe or direct, for any breach or offence against the same, not exceeding twenty-five dollars for any one offence to be sued for and recovered in any court of this State having cognizance thereof, in the name of the said corporation, and for the use and benefit of the said company: Provided, That the powers granted by this section shall cease, whenever the Legislature shall deem it expedient to institute a more adequate and complete corporation for the purposes above expressed.

3. And be it further enacted, That the said associates shall have the privilege of erecting or building any docks, wharves and piers, opposite to and adjoining the said premises in Hudson's River and the bays thereof, as far as they may deem it necessary for the improvement of the said premises, or the benefit of commerce, and to appropriate the same to their own use.

And whereas it is represented, That the legal title of all and singular

the said premises, is now vested in the said Richard Varick, Jacob Radcliff, and Anthony Dey, in trust for themselves and the said other persons associated with them as aforesaid, and it is represented to the Legislature, that the purchase of the same from the said Cornelius Van Vorst, his heirs and assigns, an annuity of six thousand dollars by a mortgage of the said premises, payable in quarter yearly payments, from and after the first day of May next, and that the said Cornelius Van Vorst will not consent to any other security for the same, nor accept a principal sum adequate to the annual product thereof, but hath lately, for himself, his heirs and assigns, covenanted to accept from the purchasers of lots in the said tract, their heirs and assigns, the ground rents charged on the same by the associates, towards payment of the said annuity upon certain terms and conditions agreed upon by him and them, and that on payment of the same to him, his heirs and assigns, such lots shall be discharged from any further responsibility on account of the said annuity:

And whereas it is represented, That the said associates have proceeded to make valuable improvements on the said premises, and are desirous to sell and dispose of a part of the same, for the purpose of further settling and improving the same, and to provide by means of such ground rents, an ample fund for the payment of the said annuity, and the security of purchasers, and to vest the whole of the said premises in the said corporation: And whereas, The settlement and improvements so made and intended to be made, promise to be of essential advantage to the commercial interests of this State:

4. Be it therefore further enacted, That it shall be lawful for the said Richard Varick, Jacob Radcliff, and Anthony Dey, their heirs and assigns, to grant and convey all and singular the said premises, with the privileges and appurtenances thereto belonging, to the said corporation and their successors and assigns, in trust for the said associates, and that the said corporation and their successors shall, in convenient and reasonable time, proceed to sell and dispose of so many of the lots laid out, or to be laid out on the said premises, charging each lot so sold with a reasonable and annual value as shall produce in the aggregate by means of the rents so reserved, a sufficient fund for the annual payment of the said annuity, or such part thereof as shall remain due and unextinguished, and that such fund, or such part thereof as shall be necessary for that purpose, shall, in the first instance, be applied yearly and every year to the payment of the said annuity, or so much thereof as shall be due and unextinguished, and that the surplus of such rents in each year only, if there be any, shall be divided among the said associates, or their legal representatives, until the said annuity shall be released or extinguished; and in case the same shall at any time be released or extinguished in part, that then a rateable proportion; and if released or extinguished in the whole, then the whole of the said fund arising or to arise from the said rents, shall be divided or otherwise disposed of among the said associates or their legal representatives, as a majority in interest shall direct, in proportion to the number of the said shares held by them respectively.

5. And be it further enacted, That all contracts heretofore made for the sale of any of the said lots by the said Richard Varick, Jacob Radcliff, and Anthony Dey, or in any way concerning the premises or the improvement of the same, shall be assumed and performed by the said corporation.

6. And be it further enacted, That the said associates and their successors shall, and may, on the second Monday of December next, and on the first Monday of November in every year thereafter, elect nine of their number to be the trustees of the said company, who, or a majority of whom, shall have power to manage and conduct the affairs of the said corporation, by the name and style herein above mentioned, and to sell and dispose of the said premises in manner aforesaid, and to exercise all the powers granted to the said corporation by this act under the regulations and restrictions herein contained, and to make rules and regulations for the government of their own board, and the time and mode of transacting business therein, and to appoint all necessary officers and agents for the purposes intended by this act, and that the first election of such trustees be held at Powles' Hook aforesaid, under the direction of William S. Pennington, Silas Condit, and Alexander C. M'Whorter, or a majority of them, as

the inspectors of such election, and every subsequent election, under the direction of three inspectors, or any two of them, to be appointed by the existing trustees, for that purpose, who shall give notice in one or more of the public newspapers printed in this State, and one or more of the public newspapers in the city of New York, at least thirty days previous to every such election, of the day and place of such election, and the hours during which the same will be held; at which elections the said associates shall elect the said trustees by ballot, and that each associate may vote at such election, in person or by proxy, and shall be entitled to one vote for each share he shall hold in the said company; and the trustees so elected, shall enter upon their offices on the first Monday thereafter in each year, or as soon after as they can conveniently be sworn into office, and shall continue in office for one year from and after the time last mentioned, and until others shall be elected and sworn in their stead, and the persons above named, for the purpose of conducting the said first election, and the inspectors to be appointed as aforesaid, for every subsequent election, shall respectively be the judges of such elections, and a decision of them, or a majority of them respectively, shall be conclusive as to the right of suffrage of any elector who shall offer himself to vote in his own right, or by proxy, at such election, and the said inspectors, or a majority of them respectively, shall determine and certify the persons, who, by a plurality of votes, shall be elected trustee as aforesaid, which certificate shall entitle every person so certified to be elected, to be qualified, and to act as a trustee for the succeeding year; and each inspector, before he enters upon the execution of his duty as such, shall take an oath or affirmation, as the case may be, that he will well and truly, and according to the best of his knowledge, execute the duty of an inspector of such election, which oath or affirmation the said inspectors are hereby authorized and empowered to administer to each other respectively.

7. And be it further enacted, That the trustees so to be elected, shall, before they enter upon their respective offices, severally take and subscribe an oath or affirmation, as the case may be, well and faithfully to execute the trusts reposed in them by this act, according to the best of their skill and understanding, which oath or affirmation may be made before any judge of the Supreme Court, or of any inferior court, or before any justice of the peace within this State, who are hereby severally authorized and required to administer the same, and in case of the death, resignation, or refusal to act, of any person so elected, it shall be lawful for the remaining trustees, by a majority of votes, to appoint another in his stead.

8. And be it further enacted, That the clerk of the county of Bergen shall appoint a deputy, who shall be sworn as such, and reside and keep an office at some place within the district of country formerly distinguished by the name of Island of Horsimus, and which includes Powles' Hook, and which island is constituted and surrounded by a certain creek called the Creek of the Woods, or Horsimus Creek, and shall keep a proper book or books for the recording of all deeds, mortgages, and other writings which may hereafter be made or executed, relating to any real estate situated within the said district or any part thereof, and all deeds, mortgages, and other writings relating to any such real estates, being proved or acknowledged by the laws of this State, for the purpose of recording or registering the same, and being recorded or registered in the said book or books, shall be as valid and effectual in the law as if the same were recorded or registered in the Clerk's office of the said county of Bergen, and it shall be the duty of such deputy so to record or register the same, and the said clerk of the said county shall be held responsible for the conduct of every such deputy to be appointed by him, and be entitled to the fees as in other cases for the like services: Provided always, That no deed, mortgage, or other instrument in writing, respecting and containing land not situated within the district aforesaid, shall be recorded in the office hereby established.

9. And be it further enacted, That the said shares of the said associates, in the said premises, shall be deemed and construed to be personal estate, and shall be transferable by them, their executives, administrators, or assigns, and the said trustees may prescribe the mode in which such transfers shall be made, in a book or books to be provided for that purpose, and the said associates shall be liable to contribute in proportion to their respective shares, to the fulfilment of all the contracts, and to all the

charges and expenses already made or incurred on account of the said premises, since the purchase of the same as aforesaid, from the said Cornelius Van Vorst, and upon every transfer of any share or shares hereafter to be made, the subsequent holder of the same shall in like manner be liable to contribute for the same to all charges and expenses, which shall accrue on account of the said premises during the time he shall hold such share or shares only, and also to the payment of the said annuity during such time and no longer, and such share or shares shall be liable for the payment of such contributions, and on failure thereof, for the space of six months after a demand made of such payment, shall be forfeited to the said company: Provided however, That the said trustees shall not make or incur any further expenditures on account of the said premises, without the consent of a majority of the holders of the said shares in interest.

10. And be it further enacted, That all sales at auction to be made at Powles' Hook, and the said Island of Horsimus, shall be free from any duty to be imposed by this State for the period of fourteen years from the passing of this act.

Council Chamber, November 10th, 1804.

This re-engrossed bill having been read and compared,
Resolved, That the same do pass.

By order of Council,

JOSEPH BLOOMFIELD, President.

House of Assembly, November 10, 1804.

This re-engrossed bill having been read and compared,
Resolved, That the same do pass.

By order of the House,

JAMES COX, Speaker.

I. John Beatty, Secretary of the State of New Jersey, do certify, that the foregoing is a true copy, taken from the original Act, remaining on file in the Secretary's office for the said State. Given under my hand, at the city of Trenton, this 13th day of November, in the year 1804.

JOHN BEATTY.

New York Claims the Hudson River

ISAAC HALSTEAD WILLIAMSON, Governor and Chancellor of New Jersey from 1817 to 1827, and according to Mr. Elmer's Reminiscences, one of the most polished gentlemen of his profession, has been thoughtful enough to leave us one document that quite evidently has escaped the notice of those who have written our history-books. In it he reviewed the whole situation up to the time when hope that New York would ever waive her unconscionable claims was absolutely dark. His message, addressed to the "Gentlemen of the Legislative Council and to the General Assembly" was dated February 4, 1828. Any one who ever has the high opportunity of reading that classical paper, will not need to be prompted by Mr. Elmer as to the scholarly background of the man who wrote it. Its exquisite diction is as remarkable as the calmness and fairness and self-restraint with which he presents a subject that the Governor certainly could not have believed to be a debatable one, even if Mr. Elmer did not whole-heartedly approve it.

Governor Williamson pointed out in his message that Commissioners from the two States had been discussing the subject as early as 1806. On November 21, 1806, our Legislature appointed and empowered its representatives, Colonel Aaron Ogden, William Sanford Pennington, Alexander C. McWhorter—those three were members of the Associates—besides James Parker and Lewis Condict. (Isaac H. Williamson was the holder of five shares in the company.) There were long and angry conferences with the commissioners from New York that ended nowhere. He referred to the act of Congress of March 8, 1806, appointing "the town and landing place of Jersey" as a port of delivery, to be annexed to the district of Perth Amboy, and to the fact that New York had repeatedly recognized the jurisdiction of the port of Jersey in those early years.

In the lurid light of local as well as National politics, it is easily comprehensible how and why an act of Congress of March 2, 1811, could have been passed abrogating all that, and annexing the port of Jersey to the district of New York, to which it is still stuck. The President of the United States was empowered in that act of 1811, to appoint an assistant-collector to reside at the town of Jersey who was to enter and clear vessels in like manner as the collector of New York was authorized to do; "but such assistant-collector shall nevertheless act in conformity to such instructions and regulations as he shall from time to time receive from the Collector of New York." That

must have been pleasant reading in "Jersey" in 1811. Colonel Aaron Ogden was the first assistant-collector; and when in 1829, the town became a port of entry, in which nothing entered, he became collector and removed here.

That Monograph of 1891 gives no hint anywhere of the enormity of the obstructions imposed by New York to embarrass the business of the Associates. On page 72 is depicted "A charming picture of bucolic simplicity!—horses and their riders disputing for the right of way with the pedestrian; and the contented pig, dripping from refreshing wallow, taking his siesta on the doorstep of the solid citizen of the "town of Jersey"—and the Associates seriously asking for a corporate charter mainly for the purpose of restraining the liberty of these animals! Extracts from the town records for payments allowed by the Selectmen—six cents for the removal of a dead dog, 62 cents for a horse and a hog, 25 cents for a horse; calculations upon the "thirst extinguishers" per capita; the "demagogue" of 1829 who had the awful nerve to object to the disgusting distillery at the corner of Hudson and Essex streets! Pages and pages of that, in the period when the Associates were commencing to gasp for their very life. New York had gone further and in 1808, was granting monopoly licenses to use the Hudson; of all those tragic years, up to 1824 when Chief-Justice John Marshall crystallized a new thought in Nationalism that grew directly out of these differences not a single word!

In 1818 New Jersey made new boundary overtures to New York. The idea then was to submit the whole matter in dispute to the Supreme Court of the United States, at least that was New Jersey's idea; to have the facts relative to the differences stated so that the Supreme Court, which New Jersey then insisted was the final arbiter of all controversies between two States, could settle them. Our State was ready to appoint Commissioners then. Governor Williams said in his message of 1828 the "overture remains to this day unanswered."

When Governor Williamson wrote his message in 1828, Jersey City had less than 1,050 people in it, after nearly 25 years. He knew perfectly well what ailed it and that it was not the Associates. He quoted from what Hamilton had written into the Act of November 10, 1804, incorporating the Jersey Company; he knew the State had given them "the privilege of erecting or building docks, wharves and piers into the Hudson River and bays, as far as they may deem it necessary." He knew, and he told his Council, too, of all those threats New York had made and held over the heads of two of the Associates who had ventured to build wharves extending far below low water mark in the early years of the new town. Suit had been brought against them and for more than twenty years it had remained untried, for the simple reason he said, that New York was really conscious of the weakness of their title and feared forcing a judicial decision.

In a notice dated October 24, 1803, printed in the Newark "Centinel of Freedom," Nathaniel Budd calls attention to his new ferry between Powles Hook and Hoboken, has good boats, careful ferrymen, convenient stables with or without forage. And curiously, he injects also into that little announcement the fundamental information that "he hath obtained liberty from the Corporation of New York to land and take off from the same Dock and Ferry stairs as the Powles Hook Boats do, at the foot of Cortland Street, in the City of New York." Nathaniel Budd seems to have encouraged the Corporation of the City of New York in a bad habit too

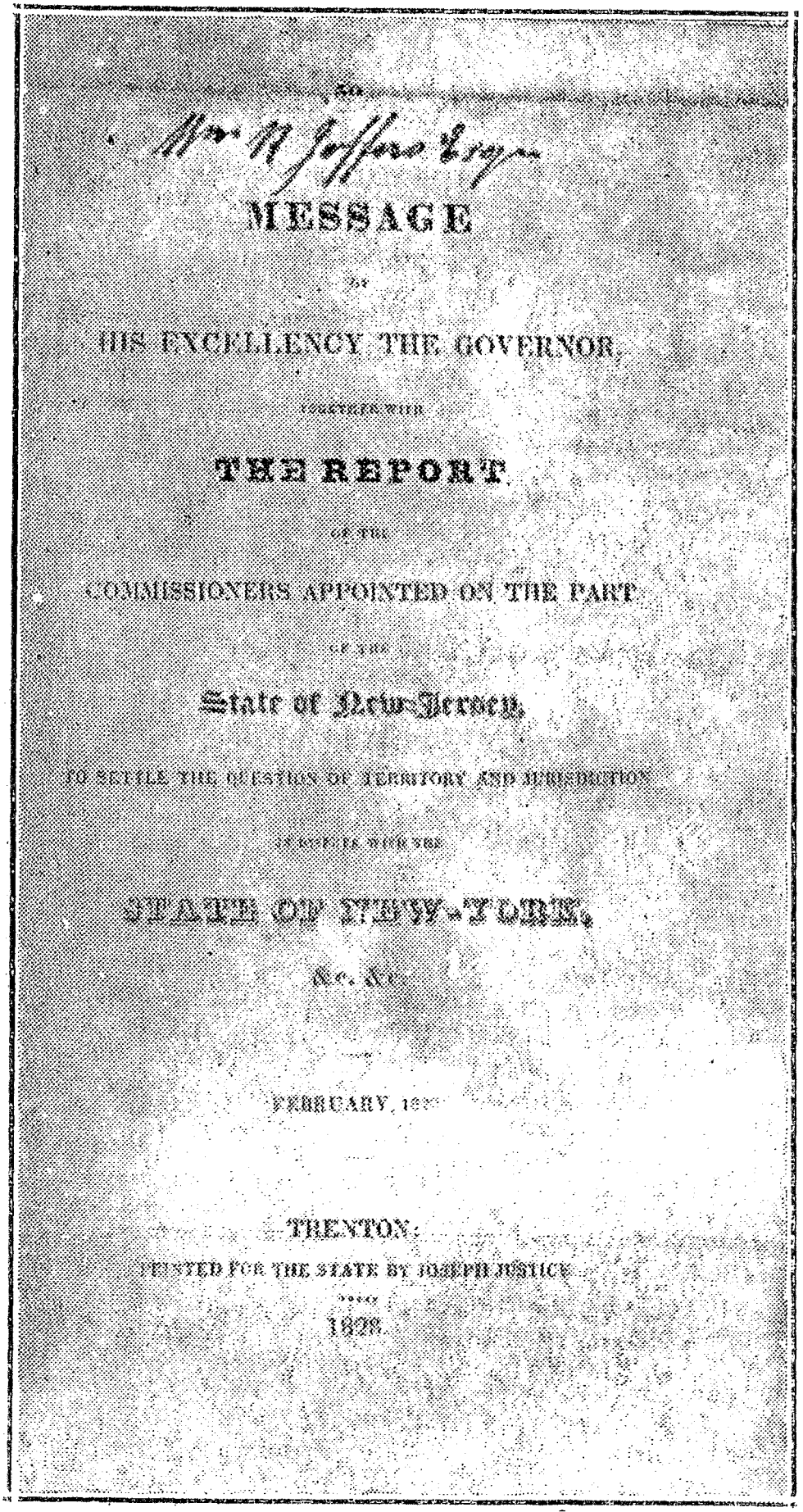
Perhaps Governor Williamson and all his predecessors in fighting the battle for the right to a free use of at least the western half of their own Hudson had overlooked that famous case in 1787, for they do not mention it in their document. Alexander Hamilton would have remembered it; doubtless he did; but he was dead July 12, 1804. Before the end of 1787 ten States had ratified the Constitution and that forever ended New York's right to tax his neighbors. But it far from ended her claim to do just that. When real business had to be done in after years, it will be seen that hand-picking a New York deputy-sheriff, or ducking or jailing a few New York oystermen was the real scientific approach.

In 1826, the deputy-sheriff of Richmond County, on Staten Island acting under the authority of the laws of New York was arrested and indicted in this State for serving processes within the jurisdiction of New Jersey. New York sat up and took notice of that. Because her officers were likely to get into more trouble of the same sort the Governor of New York officially intimated that if New Jersey would go easy with the arrests, he would use his endeavors to have commissioners appointed to go into the matters in dispute. Governor Williamson directed the suspension of proceedings against the deputy-sheriff immediately. Whilst that correspondence was going on, however, a bill actually passed one branch of the New York legislature (and subsequently became a law) in which New York re-asserted their dominion "along the west shore at low water mark of the Hudson River, of the Kill van Kull, of the sound between Staten Island and New Jersey, and of Raritan Bay to Sandy Hook." It extended the territorial claims of New York farther than had ever been done before.

A NEW COMMISSION NAMED

Governor Williamson's language about the incident in his message was entirely too lady-like, but the impounding of a deputy-sheriff doubtless speeded-up the appointment of the new commission, consisting, for New York, of John T. Irving, Nathaniel Pitcher, Samuel T. Talcott, Hermanus Bleecker, and Herman J. Redfield. For New Jersey, our Legislature named a no less distinguished group than Richard Stockton, John Rutherfurd, Theodore Frelinghuysen, James Parker and Lucius Q. C. Elmer.

The Commissioners for New Jersey held their first meeting in



MESSAGE

OF

HIS EXCELLENCY THE GOVERNOR,

TOGETHER WITH

THE REPORT

OF THE

COMMISSIONERS APPOINTED ON THE PART

OF THE

State of New-Jersey,

TO SETTLE THE QUESTION OF TERRITORY AND JURISDICTION

IN DISPUTE WITH THE

STATE OF NEW-YORK,

&c. &c.

FEBRUARY, 1829.

TRENTON:

PRINTED FOR THE STATE BY JOSEPH JUSTICE.

1829.

Trenton, and after organization into a Board, arranged for their initial meeting with the New York Commissoners at Newark, August 1, 1827. This meeting was held, and the New Jersey Commissioners afterward reported that as they perceived no disposition on the part of the New York Commissioners to engage in any formal investigation of the title to the Hudson River, which New York still claimed to own, it was decided to reduce the various propositions to writing, the proposals to be interchanged by the respective Boards.

It was not long before the Commissioners for New Jersey began to see plainly enough that the Commissioners for New York did not propose to negotiate at all on the principle of equality of right: they "considered themselves in the exclusive and decided possession of the whole waters of the Hudson River, and were only willing to concede to New Jersey, and that with a sparing hand, certain specified privileges." Then our Commissioners promptly told them that they could not negotiate upon such a basis, and that any convention made on such terms would not only be repugnant to their own convictions of the rights of New Jersey, and would never receive the sanction of our Legislature.

Subsequent conferences that summer at Newark and at Albany still further developed the position New York had always taken, that she considered her right and jurisdiction over the Hudson as unquestionable and conclusive, and that New Jersey would be effectually excluded from even a concurrent jurisdiction over any portion of what New Jersey claimed as common waters.

During the discussions, at a time when the whole purpose of the meetings seemed to have reached a deadlock, and prompted by a desire to prolong the sessions to a point at which some fruitful trading might be done, the Commissioners for New Jersey made the sad mistake of proposing to relinquish their claims to Staten Island and the adjacent small islands in the intermediate waters. New York was at that very moment making her new territorial grab. That proposal to trade Staten Island was of course withdrawn when the New Jersey Commissioners fully realized that the New York Commissioners had come there to yield nothing.

Had the theory of "glacial erosion" been in our text books in 1827, and the knowledge of New Jersey's preponderating contribution to the physical geography of Staten Island been familiarly understood then, the New Jersey Commissioners would have never thought of yielding that in 1833! In 1828, New Jersey claimed Staten Island and the small islands contiguous, and three pages of the message are especially devoted to an examination of her title, going back to the Berkley and Carteret grants, and beyond. Documents of various Governors from the beginnings of the English government were quoted by Richard Stockton in proof. Colonel Robert Hunter, Governor of both States, granted a charter to Perth Amboy in 1718 under the great seal of the province of New Jersey and the geographical status of Staten

Island in New Jersey was clear enough then. Even at the time of the first complaint of New Jersey in 1807 about the boundary Staten Island's true relation had not been questioned by New York.

As a result of all those conferences our New Jersey Commissioners had to make the humiliating acknowledgment that the only advance made was an agreement on the part of New York "allowing" New Jersey authorities "to serve criminal processes and civil processes upon the waters east of what New Jersey claims as their boundary line." The New York Commissioners flatly refused at that time to go into any examination at all of "the claims of New Jersey to territory and jurisdiction to the middle of the waters of the Hudson and the Narrows."

The letters were quoted in full in the Governor's message. The tone of the New York's Commissioners must have been no less offensive then than it would be today in case the issue involved was the "right" of New York omnibusses bound all over New Jersey but absolutely serving nobody in Jersey City to crowd every conveyance off Montgomery Street, for instance, and take the right of way on our ferry-boats; or the "right" to make our freight stations its back-yards, and jam the streets leading to them to the exclusion of the business of our own merchants. Our citizens of today can make their own estimates of Jersey City's usefulness as a highway, a convenience, a dormitory, for New York; and that was exactly the condition originally laid down by New York in 1804 as permission for our municipal existence.

In that final letter from the New York Commissioners in 1827 they seem to feel hurt that the New Jerseymen were not puffed up over "grants of new rights from the State of New York"; they thought that their propositions really "contained grants of privileges to New Jersey which she had never enjoyed and could only have the right of enjoying by virtue of concessions from this State (of New York.)" The Commissioners from New Jersey wrote that under the circumstances they deeply regretted they could not regard as a favor the privileges referred to and which the State was then fully and of right enjoying. That was on September 15, 1827.

In their final note of Sept. 17, 1827, the Commissioners for this State pointed out that they had expressed in the verbal discussions a readiness and willingness to submit to the decison of the Supreme Court of the United States for the composure of these differences. To that the Commissioners for New York replied that they were not authorized to make any such agreements or recommendation and that if New Jersey desired to make any such proposal they could only advise communicating directly with the New York Legislature, from which they had derived their authority, and the Legislature "would receive a communication of that nature, with all that consideration and respect which is due to the State of New Jersey." The Commissioners from the

State of New Jersey probably had quite as much sport with that cynical joke about the consideration and respect due the State of New Jersey as the Commissioners from the State of New York intended they should.

NEW JERSEY'S CLAIM

So, in order that there might be no doubt left in the minds of the Commissioners from New York nor in the minds of curious readers of today, our own Commissioners were careful to set down in that same letter the following terse declaration of New Jersey's claim in the whole matter.

1. A right of territory and jurisdiction to the middle of the river Hudson, and the Narrows, agreeably to the true construction of the original grants, and the rights required by the War of the Revolution, and the treaty of peace recognizing the independence of the United States.

2. Staten Island, and the three Oyster Islands, expressly included within the territory of New Jersey, as set forth in the aforesaid grant.

3. The waters between Staten Island and the mainland, the same being altogether within the limits of New Jersey.

Stories of the romance of great rivers captivate us; the legend and lore of the life of a nation have inspired poets and artists of all generations. From time immemorial their waters have flowed to the sea and the urges of ages have swept through their valleys. Majestic ships float their commerce today, no less picturesque in their setting than the Indian in his birch-bark.

Our own Hudson has had her romance, and her romancers, too; but one would hardly expect to find so entrancing a story hidden in the yellowing pages of that century-old message to the Gentlemen of the Legislative Council and the General Assembly. Mr. Elmer is our authority for stating that that section of the message dealing with the historicity of New Jersey's right in the Hudson was prepared by Richard Stockton, who served our State as one of the Boundary Commissioners in 1827, and that so far as he knew it was the only known document of Richard Stockton's in print. Although New York did not admit it at the time, she was very shortly to be driven to a recognition of the righteousness of the cause he advocated.

Mr. Stockton tells the story of the original discovery of the continent of America in 1497 by Sebastian Cabot, a natural-born British subject, and his voyaging along our coast from Newfoundland to Cape Florida. The law of nations gave England the ownership then. In 1584 Queen Elizabeth granted Sir Walter Raleigh all such countries in America as were not then possessed or inhabited by Christian people. In 1606 James I granted a patent for Virginia, which also included within its limits what is now New England, New York, New Jersey, Pennsylvania, Delaware and Maryland. Subsequently this whole grant was reannexed to the crown. England's title by right of discovery and settlement was absolutely clear.

The Dutch took advantage of England's temporary pre-occupation in other quarters and set up a claim to that part of our country that now includes New York and New Jersey. They made sparse settlements and pretended that the whole territory belonged to the West India Company. England was engrossed with her civil wars, and the Dutch were not dislodged until after the restoration of Charles II. Then the purpose of a great scheme of colonization and the settlement of English subjects upon a large scale was put forward, and the Duke of York, the King's only brother and heir-apparent of the crown, was given as a principality the whole country from Nova Scotia to Delaware Bay. This was dated March 20, 1664, and in June of the same year the Duke in turn conveyed to Lord Berkley and Sir George Carteret, two of the King's privy council, what is now New Jersey—barring of course the parts that New York has since trimmed off. Its boundaries were precisely stated as well as the privileges conveyed.

The eastern line was "the main sea and Hudson's River." That ought not to have been as hard a place to find as it has proven to be for 263 years. In Winfield's History printed in 1874, only six years after the enactment of the railroad legislation that had just deprived Jersey City of her priceless water front north of Grand Street, is a foot-note stating that the waters of the Hudson "from Weehawken to the Kill van Kull had been granted by the Dutch before the laws of England applied; that may be interesting to those who grow disputatious over riparian rights." And he asks, "should not those rights be construed by Dutch law rather than English law?" Mr. Stockton maintained that Dutch laws or rights in the river never existed at all; they were interlopers from the beginning, just as they considered the Swedes on the Delaware and whose people were killed, whose homes were burned, whose plantations were ravaged by Stuyvesant.

OUR FIRST FREEDOM.

In August 1664, the English received the submission of the Dutch, and then they commenced the operation that was really one of the most colossal enterprises in the history of civilization. The plan of the new colony was published to the people of England; it was virtually a written constitution involving the most advanced principles of English liberty. The people were to have a free plan of government, a legislature composed of governor, council and assembly to be chosen annually by the people; a judiciary department; a militia for public defense, and a system to be observed in the sale, purchase and laying-off of lands. Mr. Stockton writing in 1828 tells us that its sole object was to secure to the adventurers the blessings of civil and religious liberty, and that the system of government in his day differed no more from it than was naturally consequent upon independence from the crown of England.

Philip Carteret was the first governor. He came here in 1665. Then followed eventful and stirring years until the partition of

the colony into East and West Jersey, our portion falling to the grantees of Lord Berkley. Mr. Stockton examines the evidence with the utmost care; he says the whole purpose was to plant a new colony, to found an entirely new State on our side of the Hudson. He reserved New York to himself "so that he or his agents might not only watch over and keep in subjection the 'foreigners' who settled the country, but also mix them up with a much larger number of English subjects, and thus lay the foundation of another distinct sovereignty, to be governed by his authority, under the protection of the crown of England." The "foreigners" who still insist upon mussing up our affairs in Jersey should read Richard Stockton's opinion of them and their sovereign State a century ago. The choice made by the Duke of York in appointing Edmund Andros governor of New York in 1674 was an unfortunate one, in most particulars, but his high-handedness gave us some picturesque items of interest in this story. Edmund insisted he was governor of New Jersey too. In 1680 things had reached such a climax that he sent an armed force to Elizabethtown and arrested Governor Philip Carteret, who was carried to New York where he was indicted and tried, for usurping the King's government in New Jersey. All Andros' and the court's influence was used to procure his conviction, but he was acquitted, and Andros' conduct afterward censured and disavowed in England.

Then Mr. Stockton's brief, for page after page, is filled with the discussion of the English law on the subject that was not even cleared-up in the Boundary Treaty of 1833; he quotes the distinguished Lord Mansfield on this particular subject of the conquest of New York by the English. "The laws of the conquered country remain in force until they are altered by the conqueror"; and he showed definitely and distinctly where and when they had been changed, making one italicized reference to the confirmatory grant in 1682 from the Duke of York to Berkley and Carteret that conveyed in these words, "the free use of all bays, rivers, and waters, leading into or lying between the said premises, for navigation, free trade, fishing or otherwise."

The right to make grants then was the sole prerogative of the Crown; Richard Stockton analyzed every phase of it; he quoted the laws of nations in such matters, particularly England's, and traced the title of England down to the time of the Revolution. He referred to Governor Carteret's grant to Peter Hetfelsen of an exclusive license for a ferry from Communipaw to New York; and another by the same Governor in 1678 to Job Simerson, between Bergen, Communipaw and New York; others of the same nature were on record, granted by New Jersey Governors. In 1733, Governor Crosby of New Jersey, granted a license for a ferry from Bergen to New York to Archibald Kennedy; the same Governor authorized the location of the farm at Horsimus, then known as the Dutch West India Company's Garden. In short, Powles Hook, Hoboken and all the Bergen shore

had been "located" as under the Eastern Proprietors (New Jersey) in Colonial times, and no questions asked.

THE HUDSON A COMMON INHERITANCE.

When England ceased to own the Hudson River, he said New York did not inherit it to the exclusion of New Jersey. Mr. Stockton did not forget to remind his readers of the patriotism of the men of New Jersey and her contribution of blood and treasure to the winning of the War of the Revolution. A vast territory was divided among the States after the Revolution, and New York gained by it a mighty empire. Owing to the restricted boundary of New Jersey not a single acre came to this State. Mr. Stockton commented in plain language on the pride of New York, in the strength of her aggrandizement, attempting to make New Jersey "dependent upon her for the common privilege of the waters which wash our shores,, and that in the face of solemn grants and conventions, expressly conveying those privileges, upon the faith of which New Jersey was first colonized and settled by our ancestors."

The only public document, or private conveyance purporting to convey any rights on our side of the Hudson that was mainly relied upon by the Corporation of New York in supporting their egregious position, was what was known as the Governor Montgomery Charter of 1730, an instrument that New Jersey always protested did not convey property rights in a river that the King of England only could convey. When that pretended conveyance referred to in the Montgomery charter was made, the territory on both sides the river had grown into two great British colonies, governed by the common-law of England, subject to local statutes erected by their legislatures. Both were entitled to equal benefits and privileges accorded by the Mother Country and certainly to the free and common use of a river so important to their common commerce, defence and safety. It was an axiom of common law that "the King's grants shall pass nothing by implication." The Montgomery charter contained no words of grant conveying the soil and ownership. "The instrument contained a mere description of boundary for the City of New York", and at most they could only be construed to convey a supervisorship of the officers of the corporation of New York.

As for Staten Island, Mr. Stockton devoted three pages in the Governor Williamson message to the discussion of the second and third propositions in New Jersey's claims to its ownership. Mr. Connolly's paper in the Proceedings of the Newberry Historical Society for October, 1923, "Staten Island—Its Consolidation with New York," contains not a single reference to that classic of 1828. He has taken a position directly the opposite of Mr. Stockton's, Mr. Elmer's and Governor Williamson's. Mr. Stockton admitted that New York "has possessed Staten Island and the other small islands from the first organization of her government. Had this possession been undisputed, time might have ripened it into an undisputed title. The long con-

LAW LIBRARY
FREE PUBLIC

tinued possession, having been wrongful from the first, and always resisted, the lapse of time has served only to increase the injury."

How the Treaty Was Precipitated at Last

WE did not have any local newspaper here until the "Bergen County Gazette and Jersey City Advertiser" was started by Edwin B. Spooner. Volume 1, No. 1, appeared September 12, 1829; for a place as "disreputable" as we have been led to believe it was, the paper is in itself a reflection of something distinctly reputable. Our circulating library and many other cultural things told of in the Gazette seem to have been entirely overlooked by the fault-finders.

In its issue No. 2, dated September 19, 1829, the Gazette lets us into another phase of the dispute between the States quite as discreditable to New York as anything in all the centuries of her domination of the river and bay. This incident was the story of the outbreak of the "Oyster War", quoted from the Newark Sentinel. The hostilities started on Tuesday, September 8; the Sentinel declared "it was one of the most high-handed and barefaced transactions of which we have any recollection." Mr. Spooner of our own Gazette wrote that he saw in it the "outrageous and high-handed intention of the State of New York to trample upon our laws and to disregard our State's jurisdictions." That was the truth of the situation as Jersey newspapermen saw it and interpreted it in 1829.

To get the beginning of the "Oyster War" we will have to go back a few years. The Evening Post was one of the New York papers that was exploiting in 1824, the curiously philanthropic scheme of forming companies to cultivate oysters in New Jersey lands under water in the vicinity of New York. It would sound very funny, were it not a page out of the book of that cynical age-old program of occupation and possession. New Jersey was to lease the lands at $3.00 an acre; already six companies had been formed to occupy 1,000 acres each, and that alone would bring the State a revenue of $18,000 a year. "As the State of New Jersey seldom realized more than $30,000 per year, it would take but ten of these companies to relieve the State entirely of its burthen of taxes." Governor A. Harry Moore might find that prospectus useful and really informing. I wonder if New York pays as much as $3.00 an acre today for the mileage of our shore front and meadows now occupied!

The story of the Oyster War is spread through many many yellowed pages of the New Jersey newspapers of that era. The Elizabethtown Gazette carried a long account of it. The Newark Sentinel told of the original act of the New Jersey legislature a few years before when appealed in the guise of a measure to encourage an industry that would be so helpful to the State. One

of the companies chartered, planted 40 acres or thereabouts directly opposite Amboy, and the Sentinel adds, "within the acknowledged waters of New Jersey." The company was to have the sole right to take the oysters from their bed for a certain period and it was to pay rent to the State of New Jersey as agreed upon. The company had expended about $12,000 in planting and in other expenses incidental to the business.

In 1829, the oyster beds were in their third year and they were remarkably fine. The company had every reason to expect large profits on their venture, but their hopes were blasted on that Tuesday morning of September 8th when a fleet of a hundred vessels of different sizes, well-manned and equipped for their piracy, sailed into the bay in open daylight and stripped them. Property worth $25,000 to $30,000 was despoiled or carried away in the three or four days of marauding. The attention of the New Jersey authorities or the county officials, it appears, could not be secured until Thursday, September 10th, when the sheriff went out to remonstrate. The marauders cursed him and told him thy did not care a hoot for the Sheriff of Middlesex or all the sheriffs in the State of New Jersey, or even New Jersey itself. The sheriff's posse had brought along a four-pound gun with "ball and grape" and after reading his warrant, he ordered the gun to be fired into the fleet. Then they made-off, threatening vengeance and swearing to come back and burn the town.

ONE DAY'S SPORT WITH BALL AND GRAPE.

Apparently only two of the pirates were captured on Thursday. They were taken to New Brunswick to jail. On Friday and Saturday the depredations were continued by the New York pirates, who had come back in greater numbers than ever. Representations had been made to our State authorities that the act of chartering the companies was unconstitutional; and the county was left unprotected, except for that one day's sport with "ball and grape." Then the whole bed was surrendered without further fight. The Newark Sentinel thought the whole procedure was "a new mode of trying the legality of public acts." The New York Journal of October 20, 1829, said the Jackson candidates there had "mounted the Oyster hobby upon which they rode in triumph. Last year the county gave a majority of more than 400 against Jackson." That abstract seems a fitting sequence to the comment of the Morning Courier and New York Enquirer of October 8th: "The good folks of New Jersey complain very much of the insufficiency of their State government and incompetency of their rulers in the protection of their oysters at Amboy. Why don't they elect a Jackson governor and cease to claim our waters?"

Our Mr. Spooner answered that with some withering words about the superlative arrogance of those men on the east bank of the Hudson who "talk seriously about New York's exercising jurisdiction over the waters that separate the States. It is indeed ridiculous, and proves that their motto is that of tyrants,

'Might is right." He had a 1927 opinion, right up to the minute, of those New York newspapermen, "professing intelligence beyond ordinary imbecility or weakness of mind," who should criticize us for "claiming, what is our own." He hoped the time was not far distant when this question of jurisdiction would be settled on the broad grounds of justice and that every invasion of our rights would meet the punishment such crime deserves.

The Gazette of February 26, 1831, in opening a new chapter or phase of the dispute, tells of the farcical outcome of an attempt to have the United States Supreme Court consider the claims of New Jersey. He referred to two abortive attempts before a bill in equity was finally filed in 1829. He said New Jersey always claimed the soil and jurisdiction to the middle of the Hudson River. Subpoenas had been served 60 days before the January, 1830, term upon the Governor and the Attorney-General of the State of New York, and when called they did not appear. New Jersey then claimed to be heard ex parte; but the Court decided not to dispose of the case that way and postponed it until the January term of 1831. Then the New York executives were again in default. Instead of appearing in Court, the Attorney-General of New York wrote a letter telling the United States Supreme Court it had no right to exercise jurisdiction or consider the litigation of such a case without the special authority of an act of Congress! Mr. Spooner was much more "het up" than anybody today ever dare be; he said every honest man must blush for shame for New York; New York was degraded! On March 19, 1831, there was a second article of the same tenor about another brazen defiance of the authority of the United States Supreme Court.

THE PIRATES EXCORIATED.

The "Bergen County Courier" succeeded the "Gazette in Jersey City. Careful search of it files reveal only one item relating to the progress of the dispute. It was in the issue of March 31, 1832, and in that Mr. Post tells us that "the long and unjust claim of New York to the waters of our shores was argued last week in the Supreme Court of the United States." Perhaps everybody in Jersey City knew all about it without Mr. Post's telling and so his newspaper story is not as elaborate as it should have been for us of 1927.

There was only one day's argument heard, and the Court, perceiving that it would not be able to sit out the case that term, granted a postponement again. Mr. Post, however, unquestionably registrated much editorial disgust over the technicality of legal practices that permitted the hearings to stop and prevent a judgment being reached.

The final public reference to the dispute found in the "Courier" appeared October 1, 1832, in an obituary notice written in honor of William Durant, the father of Charles F. Durant, distinguished in 1830 as the first American to fly a balloon and in many other scientific achievements. He died September 10

at the age of 54 after spending most of his mature life in Jersey City. He was among the first to settle here, encouraged by promises and his own belief that a speedy adjustment of the boundary dispute would take place and Jersey City would become a port of entry. He purchased from the Jersey Company land adjoining and forming part of the Fulton estate in 1832. At first the land was inundated, and to raise it above tidewater he expended a fortune; then his wharf and the sand with which it was filled was several times carried away by the equinoctial storms which about that time raged violently. But Mr. Durant, too, was dead before the treaty phase of the dispute was reached.

The "Courier" suspended publication, too, before the end of 1832, another martyr to misplaced belief in the fortunes of Jersey City. The summer of 1832 was distinguished by the appearance of cholera in New York when death and destruction stalked everywhere in horrible form. No reliable statistics of the mortality are available, for many New York people fled the city; so many of the refugees died in Hackensack that that town was compelled to issue public notices against their interment there. In the township of Bergen, 60 dead of cholera were reported.

Only the first page of this long contested Boundary Dispute was turned in 1833. Governor Williamson had scarcely dry-sanded his message of 1828 when those ominous reports commenced to come in from the oyster-beds located in the disputed waters. Whilst "War between the States" was not officially declared, in 1829 the situation was grave enough in the next few years to encourage the belief that something might be done at last with the difficulty. Legislative sanction was finally given to a commission in 1833, consisting of Theodore Frelinghuysen, James Parker, and Lucius Q. C. Elmer, to treat with a commission already appointed by New York.

Mr. Elmer tells us of the surprise they experienced at the entire change of front on the part of New York. Instead of a stubborn persistence in the claims held for so long, it was apparent at once that the single question was one of acknowledging the true boundary line as lying in the middle of the river: then New Jersey would admit New York's right to regulate the police and the quarantine on the whole of the waters dividing the States. Mr. Elmer made the curious observation in his book—the first and only reference of that tenor — "That the original right of New Jersey to the whole of Staten Island was much plainer than her right to the middle of the Hudson River, as we claimed, and as New York finally conceded to us—" So it will be seen that the points at issue were of a controversial nature even then among people who had a good deal to do with the settlement that was finally confirmed by New York, February 5, and by New Jersey, February 26, 1834, and by the Congress of the United States, June 28, 1834.

The Boundary Treaty of 1834

AN ACT

To Ratify and Confirm an Agreement made between the Commissioners appointed by the Governor of the State of New York, and the Commissioners appointed by the Governor of the State of New Jersey, respecting the territorial limits and jurisdiction between the said States. Passed the 26th of February, 1834.

Whereas, commissioners duly appointed on the part of the State of New York, and commissioners duly appointed on the part of New Jersey, for the purpose of agreeing upon and settling the jurisdiction and territorial limits of the two States, have executed certain articles, two copies for each State, which are contained in the following words:

Agreement made and entered into by and between Benjamin F. Butler, Peter Augustus Jay, and Henry Seymour, commissioners duly appointed on the part and behalf of the State of New York, in pursuance of an act of the Legislature of the said State, entitled "An act concerning the territorial limits and jurisdiction of the State of New York and the State of New Jersey," passed January 18th, 1833, of the one part, and Theodore Frelinghuysen, James Parker and Lucius Q. C. Elmer, commissioners duly appointed on the part and behalf of the State of New Jersey, in pursuance of an act of the Legislature of the said State, entitled "An act for the settlement of the territorial limits and jurisdiction between the States of New Jersey and New York," passed February 6th, 1833, of the other part.

Article I. The boundary line between the two States of New York and New Jersey, from a point in the middle of Hudson River, opposite the point on the west shore thereof, in the forty-first degree of north latitude, as heretofore ascertained and marked, to the main sea, shall be the middle of the said river, of the bay of New York, of the water between Staten Island and New Jersey, and of Raritan Bay, to the main sea, except as hereinafter otherwise particularly mentioned.

Art. II. The State of New York shall retain its present jurisdiction of and over Bedlow's and Ellis' Islands, and shall also retain exclusive jurisdiction of and over the other islands lying in the waters above mentioned, and now under the jurisdiction of that State.

Art. III. The State of New York shall have and enjoy exclusive jurisdiction of and over all the waters of the bay of New York, and of and over all the waters of Hudson River lying west of Manhattan Island, and to the south of the mouth of Spuytenduyvel Creek, and of and over the lands covered by the said waters to the low water mark on the westerly or New Jersey side thereof; subject to the following rights of property and of jurisdiction of the State of New Jersey, that is to say:

1. The State of New Jersey shall have the exclusive right of property in and to the land under water, lying west of the middle of the bay of New York, and west of the middle of that part of the Hudson River which lies between Manhattan Island and New Jersey.

2. The State of New Jersey shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made on the shore of the said State, and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said vessel shall be subject to the quarantine or health laws, and laws in relation to passengers, of the State of New York, which now exist or which may hereafter be passed.

3. The State of New Jersey shall have the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters: Provided, That the navigation be not obstructed or hindered.

Art. IV. The State of New York shall have exclusive jurisdiction of and over the waters of the Kill Van Kull, between Staten Island and New Jersey, to the westermost end of Shooter's Island, in respect to such quarantine laws and laws relating to passengers, as now exist or may hereafter be passed under the authority of that State, and for executing the same; and the said State also have exclusive jurisdiction, for the like purposes, of and over the waters of the sound, from the westermost end of Shooter's Island to Woodbridge Creek, as to all vessels bound to any port in the said State of New York.

THEODORE FRELINGHUYSEN

Boundary Commissioner, 1834. From the Original Portrait in the American Bible Society Board Room, New York.—Copied by the Amagraph Company.